

JOURNAL
OF THE
PROCEEDINGS
OF THE
FIRST SESSION
OF THE
GENERAL ASSEMBLY
OF THE
UNITED STATES.



CONGRESSIONAL PROCEEDINGS.

House of Representatives.

Monday, December 3, 1798.

THIS day being fixed for the meeting of Congress, the members assembled at their respective chambers; but a quorum not appearing, they adjourned to 11 o'clock on Tuesday.

The following is a complete list of the Members of the two Houses:—viz.

S E N A T O R S.

New-Hampshire.

John Langdon,
Samuel Livermore.

Massachusetts.

Benjamin Goodhue,
Theodore Sedgwick.

Rhode-Island.

Theodore Foster,
Ray Greene.

Connecticut.

James Hillhouse,
Uriah Tracy.

Vermont.

Nathaniel Chipman,
Elijah Paine.

New-York.

John Lawrence,
Philip Schuyler.

New-Jersey.

Franklin Davenport,
Richard Stockton.

Pennsylvania.

William Bingham,
James Ross.

Delaware.

John Vining,
Henry Latimer.

Maryland.

John Howard,
Henry Lindlow.

Virginia.

Stephen T. Mason,
Henry Tazewell.

North-Carolina.

Timothy Bloodworth,
Alexander Martin.

South-Carolina.

John Hunter,
Jacob Root.

Georgia.

James Gunn,
Josiah Tattnall.

Kentucky.

John Brown,
Humphrey Marshall.

Tennessee.

Joseph Anderson,
Daniel Smith.

Bishop White,

Chaplain.

Samuel A. Otis,

Secretary
to the Senate.

R E P R E S E N T A T I V E S.

John Jay, Speaker.

New-Hampshire.

Abiel Folger,
Jonathan Freeman,
William Goodhue,
Peleg Green.

Massachusetts,
Stephen Bullock,
Dwight Foster,
Nathaniel Franklin, Jr.,
Samuel Lyman.

Hamilton C. Otis,

John Parker,
John Reed,
Samuel Sewall,
William Shepard,
Joseph J. Skinner,
George Fletcher,
Joseph B. Farnum,
Peter B. Worth,
Dallas Merton.

Rhode-Island.

Christo. G. Champlin,
Thomas Tillinghast.

Connecticut.

Jonathan Bruce,
Chauncy Goodrich,
Roger Griswold,
Nathaniel Smith,
John Allen,
Samuel W. Dana.

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William Edmond, <i>Vermont.</i>	Robert Brown, Robert Wain, Richard Thomas. <i>Delaware.</i>	Abram Trigg, Abraham Venable, <i>North-Carolina.</i>
Matthew Lyon, Lewis R. Morris. <i>New-York.</i>	James A. Bayard. <i>Maryland.</i>	Thomas Blount, Richard D. Spaight, Dempsey Burgess, James Gilchrist, William B. Grove, Matthew Locke, Nathaniel Macon, Joseph M. Dowell, Richard Stanford, Robert Williams. <i>South-Carolina.</i>
David Brooks, James Cochran, Lucas Elmandorph, Henry Glen, Jonathan N. Havens, Ezekiah L. Holmer, Edward Livingston, John Van Allen, Philip Van Cortlandt, John Williams. <i>New-Jersey.</i>	George Bear, jun., William Craik, George Dent, John Dennis, William Hindman, William Mathews, Samuel Smith. <i>Virginia.</i>	Lemuel Benton, Robert G. Harper, John Rutledge, jun., Thomas Pinckney, Wm. Smith, of Pinck- ney District, Thomas Sumpter. <i>Georgia.</i>
Jonathan Dayton, James H. Inlay, James Schureman, Thomas Sennicklon, Mark Thompson. <i>Pennsylvania.</i>	Richard Brent, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clinton, Thomas Dawson, Thomas Evans, Joseph Eggleston, Carter B. Harrison, David Holmes, Walter Jones, James Machir, Daniel Morgan, Anthony New, John Nicholas, Josiah Parker, John Trigg, Jona. W. Condy, Clerk of the House of Representatives. Ashbel Green, D. D. Chaplain.	Abraham Baldwin, John Milledge. <i>Kentucky.</i>
David Baird, John Chapman, George Ege, William Findley, Andrew Gregg, Albert Gallatin, John Andre Hanna, Thomas Hartley, John W. Kittera, Blair M'Clenachan,		Thomas I. Davis, John Fowler. <i>Tennessee.</i>
		William Clayborne.

Tuesday, December 4.

This day 49 members were present in the House of Representatives. The standing rule of the House requires 54 to form a quorum. Adjourned.

In the Senate 11 members only appeared.

Wednesday, December 5.

The House of Representatives of the United States this day formed a quorum. The constitutional oath having been administered to Messrs. Brace, Brown, Eggleston and Wain, the usual message was sent to the Senate to inform that body that a quorum of the House of Representatives was assembled, and ready to proceed to business—the report to which was, that the Senate had adjourned, a quorum of members not being present. A Committee of Election was then appointed, consisting of Messrs. Varnum, Goodrich, Dent, J. Williams, New, and Baldwin.

Mr. Kittera moved the usual resolution for supplying the members with three daily papers, at their respective lodgings. Mr. Macon inquired whether, by usual, was meant the resolution passed at the last session, which authorized members to be served with any three papers published on the continent, or that formerly passed, which had reference only to papers printed in this city. If the former was meant, he should be opposed to it; but if the latter, he wished it to pass.—Mr. Kittera observing that it was the resolution which was confined to the city papers, it passed without objection. Adjourned.

Thursday, December 6.

A quorum being formed, the speaker informed the house, that the clerk had waited on the Senate, but a sufficient number had not assembled to form a quorum, but as there were Senators enough in town for that purpose, they had been sent for.

Soon after, a message was received from Senate, by Mr. Otis, their secretary, purporting, that a quorum had assembled, and proceeded to business, and that they had elected the Hon. John Lawrence, their President pro. tem. during the absence of the Vice-President.

On motion of Mr. Macon, a committee was appointed to wait on the President of the United States, in conjunction with one from the Senate, to notify him that a quorum of both houses had assembled, and were ready to receive any communications he might think proper to make to them—Messrs. Dana, Venable and Harper were appointed.

A message was received from the Senate with the appointment of Mr. Reed and Mr. Paine on their part.

The committee having returned, Mrs. Dana reported that the President had appointed Saturday 12 o'clock, to make his communications to both houses in the Representatives' chamber, and that his present indisposition was the cause of his being obliged to postpone it to that time. The house then adjourned till Saturday.

Saturday, December 8.

The House having been called to order, and the journals read, the Speaker observed that the hour was nearly arrived at which the President had proposed to make his communications to both Houses, and read a resolution which was usually entered into on such occasions, informing the Senate that this House is formed, and ready to receive any communications which the President may be pleased to make to them. The resolution was adopted, and a message having been sent to the Senate therewith, the members soon after entered and took the places prepared for them.

At twelve o'clock, Lieutenant General Washington, with his Secretary Colonel Lear, Major Generals Pinckney and Hamilton, entered the Hall, and took their places on the right of the Speaker's chair. The British and Portuguese Ministers, and the British

and Danish Consuls, with their Secretaries, had their places assigned them on the left of the chair.

A few minutes after twelve, the President of the United States, accompanied by his Secretary and the Heads of the several Departments of the Government appeared. The President having taken his seat, and the officers of Government seated, near the General Officers, after a short pause he arose and addressed the two Houses with the following

S P E E C H :

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives,*

WHILE with reverence and resignation we contemplate the dispensations of Divine Providence in the alarming and destructive pestilence, with which several of our cities and towns have been visited, there is cause for gratitude and mutual congratulations, that the malady has disappeared, and that we are again permitted to assemble in safety, at the seat of government, for the discharge of our important duties. But when we reflect that this fatal disorder has, within a few years made repeated ravages in some of our principal seaports, and with increased malignancy, and when we consider the magnitude of evils arising from the interruption of public and private business, whereby the national interests are deeply affected; I think it my duty to invite the Legislature of the union to examine the expediency of establishing suitable regulations in aid of the health laws of the respective States: for these being formed on the idea that contagious sickness may be communicated through the channels of commerce, there seems to be a necessity that Congress who alone can regulate trade, should frame a system which while it may tend to preserve the general health, may be compatible with the interests of commerce, and the safety of the revenue.

While we think on this calamity, and sympathise with the immediate sufferers we have abundant reason to present to the Supreme Being our annual obligations of gratitude for a liberal participation in the ordinary blessings of his Providence. To the usual subjects of gratitude, I cannot omit to add one of the first importance to our well being and safety; I mean the spirit which has arisen in our country against the menaces and aggression of a foreign nation. A manly sense of national honor, dignity and independence has appeared, which if encouraged and invigorated by every branch of the government, will enable us to view undismayed, the enterprizes of any foreign power, and become the sure foundation of national prosperity and glory.

The course of the transactions, in relation to the United States and France, which have come to my knowledge during your recess will be made the subject of a future communication. That communication will confirm the ultimate failure of the measures which

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have been taken by the government of the United States towards an amicable adjustment of differences with that power. You will at the same time perceive, that the French government appears solicitous to impress the opinion, that it is averse to a rupture with this country, and that it has in a qualified manner, declared itself willing to receive a minister from the United States for the purpose of restoring a good understanding. It is unfortunate for professions of this kind, that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a minister from the United States, should possess, and that while France is asserting the existence of a disposition on her part to conciliate with sincerity the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned. It is also worthy of observation, that the decree of the Directory, alledged to be intended to restrain the depredations of French cruisers on our commerce, has not given and cannot give any relief; it enjoins them to conform to all the laws of France, relative to cruising and prizes, while these laws are themselves the source of the depredations of which we have so long, so justly, and so fruitlessly complained.

The law of France enacted in January last, which subjects to capture and condemnation neutral vessels and their cargoes, if any portion of the latter are of British fabric or produce, although the entire property belong to neutrals, instead of being rescinded, has lately received a confirmation, by the failure of a proposition for its repeal. While this law, which is an unequivocal act of war on the commerce of the nations it attacks, continues in force, those nations can see in the French government only a power regardless of their essential rights, of their independence and sovereignty, and if they possess the means, they can reconcile nothing with their interest and honor, but a firm resistance.

Hitherto, therefore, nothing is discoverable in the conduct of France, which ought to change or relax our measures of defence; on the contrary, to extend and invigorate them is our true policy. We have no reason to regret that those measures have been thus far adopted and pursued: and in proportion as we enlarge our view of the portentous and incalculable situation of Europe, we shall discover new and cogent motives for the full developement of our energies and resources.

But in demonstrating by our conduct that we do not fear war, in the necessary protection of our rights and honor, we shall give no room to infer that we abandon the desire of peace. An efficient preparation for war can alone insure peace. It is peace that we have uniformly and perseveringly cultivated, and harmony between us and France may be restored at her option. But to send another minister, without more determinate assurances that he would be received, would be an act of humiliation to which the

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United States ought not to submit. It must therefore be left with France, if she is indeed desirous of accommodation, to take the requisite steps. The United States will steadily observe the maxims by which they have hitherto been governed. They will respect the sacred rights of embassy. And with a sincere disposition on the part of France to desist from hostility, to make reparations for the injuries hitherto inflicted on our commerce, and do justice in future, there will be no obstacles to the restoration of a friendly intercourse. In making you this declaration, I give a pledge to France, and to the world, that the executive authority of this country still adheres to the humane and pacific policy, which has invariably governed its proceedings, in conformity with the wishes of the other branches of the government, and of the people of the United States. But, considering the late manifestations of her policy towards foreign nations, I deem it a duty, deliberately and solemnly, to declare my opinion, that whether we negotiate with her or not, vigorous preparations for war will be alike indispensable. These alone will give to us an equal treaty, and ensure its object.

Among the measures of preparation which appear expedient, I take the liberty to recall your attention to the naval establishment. The beneficial effects of the small naval armament provided under the acts of the last session are known and acknowledged. Perhaps no country ever experienced more sudden and remarkable advantages from any measure of policy, than we have derived from the armament for our maritime protection and defence. We ought without loss of time, to lay the foundation for the increase of our navy to a size sufficient to guard our coasts and protect our trade. Such a naval force as it is doubtless in the power of the United States to create and maintain, would also afford to them the best means of general defence, by facilitating the safe transportation of troops and stores to every part of our extensive coasts. To accomplish this important object, a prudent foresight requires, that systematical measures be adopted, for procuring at all times, the requisite timber and other supplies. In what manner this shall be done, I leave to your consideration.

I will now advert, gentlemen, to some matters of less moment, but proper to be communicated to the legislature.

After the Spanish garrisons had evacuated the posts which they occupied at the Natches and Walnut Hills, the commissioner of the United States commenced his observations to ascertain the point near the Mississippi which terminated the northernmost point of the 31st degree of north latitude. From thence he proceeded to run the boundary line between the United States and Spain. He was afterwards joined by the Spanish commissioner, when the work of the former was continued; and they proceeded together to the demarcation of the line. Recent information renders it probable that the southern Indians, either instigated to oppose the demarcation, or jealous of the consequences of suffering white people to

run a line over lands to which the Indian title had not been extinguished, have, ere this time, stopped the progress of the commissioners. And considering the mischiefs which may result from continuing the demarkation in opposition to the will of the Indian tribes, the great expence attending it, and that the boundaries which the commissioners have actually established probably extend at least as far as the Indian title has been extinguished, it will perhaps become expedient and necessary to suspend further proceedings by recalling our commissioner.

The Commissioners appointed in pursuance of the fifth article of the treaty of amity, commerce and navigation between the United States and his Britannic Majesty, to determine what river was truly intended under the name of the river St. Croix, mentioned in the treaty of peace, and forming a part of the boundary therein described, have finally decided that question. On the twenty-fifth of October, they made their declaration, that a river called Schoodic, which falls into Passamaquody Bay, at its north-western quarter, was the true St. Croix, intended in the treaty of peace, as far as its great fork, where one of its streams comes from the westward, and the other from the northward: and that the latter stream is the continuation of the St. Croix to its source. This decision, it is understood, will preclude all contention among individual claimants, as it seems that the Schoodic and its northern branch, bounds the grants of lands which have been made by the respective adjoining governments. A subordinate question, however, it has been suggested, still remains to be determined. Between the mouth of the St. Croix, as now settled, and what is usually called the bay of Fundy, lie a number of very valuable islands. The commissioners have not continued the boundary lines through any channel of these islands, and unless the Passamaquody, be a part of the bay of Fundy, this further adjustment of boundary will be necessary. But it is apprehended, that this will not be a matter of any difficulty.

Such progress has been made in the examination and decision of cases of captures and condemnations of American vessels, which were the subject of the seventh article of the treaty of amity, commerce and navigation, between the United States and Great Britain—that it is supposed the Commissioners will be able to bring the business to a conclusion in August of the ensuing year.

The commissioners acting under the twenty fifth article of the treaty between the United States and Spain, have adjusted most of the claims of our citizens for losses sustained in consequence of their vessels and cargoes having been taken by the subjects of his Catholic Majesty during the late war between France and Spain.

Various circumstances have concurred to delay the execution of the law for augmenting the military establishment. Among these the desire of obtaining the fullest information to direct the best selection of officers. As this object will now be speedily accomplish-

ed, it is expected that the raising and organizing of the troops will proceed without obstacle and with effect.

Gentlemen of the House of Representatives,

I have directed an estimate of the appropriations which will be necessary for the service of the ensuing year, to be laid before you, accompanied with a view of the public receipts and expenditures to a recent period. It will afford you satisfaction to infer the great extent and solidity of the public resources, from the prosperous state of the finances, notwithstanding the unexampled embarrassments which have attended commerce. When you reflect on the conspicuous examples of patriotism and liberality, which have been exhibited by our mercantile fellow citizens, and how great a proportion of the public resources, depends on their enterprise, you will naturally consider whether their convenience cannot be promoted and reconciled with the security of the revenue, by a revision of the system, by which the collection is at present regulated.

During your recess, measures have been steadily pursued for effecting the valuations and returns directed by the act of the last session, preliminary to the assessment and collection of a direct tax. No other delays or obstacles have been experienced, except such as were expected to arise from the great extent of our country, and the magnitude and novelty of the operation, and enough has been accomplished to assure a fulfilment of the views of the legislature.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

I cannot close this address, without once more adverting to our political situation, and inculcating the essential importance of uniting in the maintenance of our dearest interests; and I trust that by the temper and wisdom of your proceedings, and by a harmony of measures, we shall secure to our country that weight and respect to which it is so justly entitled.

JOHN ADAMS.

Answer of the Senate to the President's Speech.

The Senate in a body waited upon the President of the United States on Wednesday morning the 12th, with the following

ANSWER TO HIS SPEECH.

To the President of the United States.

SIR,

THE Senate of the United States join you in thanks to the Almighty God, for the removal of the late afflicting dispensations of his Providence—and for the Patriotic Spirit, and general prosperity of our country. Sympathy for the suffering of our fellow citizens from diseases, and the important interests of the union,

demanded of the national legislature a ready co-operation with the state governments, in the use of such means as seem best calculated to prevent the return of this fatal calamity.

Although we have sincerely wished that an adjustment of our differences with the Republic of France might be effected on safe and honorable terms, yet the information you have given us of the ultimate failure of the negotiation has not surprised us. In the general conduct of that Republic we have seen a design of universal influence incompatible with the self government, and destructive of the independence of other States.

In its conduct towards these United States we have seen a plan of hostility pursued with unremitting constancy, equally disregarding the obligations of treaties, and the rights of individuals. We have seen two Embassies formed for the purpose of mutual explanations, and clothed with the most extensive and liberal powers, dismissed without recognition, and even without a hearing. The government of France has not only refused to repeal, but has recently enjoined the observance of its former edict respecting merchandise of British fabric or produce, the property of neutrals, by which the interruption of our lawful commerce, and the spoliations of the property of our citizens, have again received a public sanction. These facts indicate no change of system or disposition; they speak a more intelligible language than professions of solicitude to avoid a rupture however ardently made. But if after the repeated proofs we have given of a sincere desire for peace, these professions should be accompanied by insinuations implicating the integrity with which it has been pursued, if neglecting and passing by the constitutional and authorized agents of the government, they are made through the medium of individuals without public character or authority—and above all, if they carry with them a claim to prescribe the political qualifications of the minister of the United States to be employed in the negotiation, they are not entitled to attention or consideration, but ought to be regarded as designed to separate the people from their government, and to bring about by intrigue that which open force could not effect.

We are of opinion with you, Sir, that there has nothing yet been discovered in the conduct of France, which can justify a relaxation of the means of defence, adopted during the last session of Congress, the happy result of which is so strongly and generally marked. If the force by sea and land which the existing laws authorize, should be judged inadequate to the public defence, we will perform the indispensable duty of bringing forward such other acts as will effectually call forth the resources and force of our country.

A steady adherence to this wise and manly policy, a proper direction of the noble spirit of patriotism which has arisen in our country, and which ought to be cherished and invigorated by every branch of the government, will secure our liberty and independence against all open and secret attacks.

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We enter on the business of the present session with an anxious solicitude for the public good, and shall bestow that consideration on the several objects pointed out in your communication which they respectively merit.

Your long and important services, your talents and firmness, so often displayed in the most trying times, and most critical situations, afford a sure pledge of a zealous co-operation in every measure necessary to secure justice and respect.

To which the President made the following REPLY:

To the SENATE of the UNITED STATES.

GENTLEMEN,

I THANK you for this address, so conformable to the spirit of our constitution, and the established character of the Senate of the United States, for wisdom, honor and virtue.

I have seen no real evidence of any change of system or disposition in the French Republic, towards the United States. Although the officious interference of individuals, without public character or authority, is not entitled to any credit, yet it deserves to be considered, whether that temerity and impertinence of individuals, affecting to interfere in public affairs, between France and the United States, whether by their secret correspondence, or otherwise and intended to impose upon the people, and separate them from their government, ought not to be enquired into and corrected.

I thank you, Gentlemen, for your assurances that you will bestow that consideration on the several objects, pointed out in my communication, which they respectively merit.

If I have participated in that understanding, sincerity and constancy, which have been displayed by my fellow-citizens and countrymen, in the most trying times and critical situations, and fulfilled my duties to them, I am happy.—The testimony of the Senate of the United States, in my favor, is an high and honorable reward which receives, as it merits, my grateful acknowledgments. My zealous co-operation, in measures necessary to secure us justice and consideration, may be always depended upon.

JOHN ADAMS.

Philadelphia, December 12, 1798.

House of Representatives.

Monday, Dec. 10.

Richard Dobbs Spaight from North-Carolina, in the place of Nathan Bryan, deceased, was qualified and took his seat in the House.

Mr. J. Williams moved the usual resolution for the appointment of two Chaplains of different denominations, and the House agreed:

but on a message coming down from Senate, that they had passed a similar resolution, the House on motion of Mr. Dent, rescinded their resolution, and agreed to that from the Senate.

The House then, agreeable to the order of the day, resolved itself into a committee, on the President's speech, Mr. Dent in the chair. Mr. Sprague moved the following resolution.

Resolved that it is the opinion of this committee, that a respectful address ought to be presented, from the House of Representatives, to the President of the United States, in answer to his speech to both Houses at the commencement of the present Session, containing assurances that this House will take into consideration the many important matters recommended to their attention. The committee rose, and reported, and the resolution was adopted by the House.

Mr. D. Foster moved that a committee be appointed to draft the answer. Messrs. Dana, Venable, Harper, Hosmer and Baldwin were appointed.

Mr. Kittera presented a petition of John Daniels, an old soldier, praying to be placed on the Invalid list.

Mr. W. Claiborne presented a petition of N. H. S. Fournier, stating his attendance on the army as a Physician during indisposition of the army Physician, and praying pay therefor. Mr. Claiborne moved that it be referred to a select committee.

Mr. J. Williams thought a committee of claims ought to be appointed, to which it should be referred.

Mr. Claiborne said that if a committee of claims had been appointed, he should move for its reference to a select committee, it being a peculiar case. This gentleman had been at considerable charge and trouble for which he ought to be paid. Application had been made to the Secretary of War, who had decided on the claim, but in a very particular manner, on which account the appeal was now removed to the House. If it was referred to the committee of claims the difficulty of getting the members together might prevent that investigation which was necessary to do justice to the case; it could not be so well or so speedily done as by a select committee. The motion was lost.

Mr. J. Williams then moved that a committee of claims be appointed, pursuant to the standing rules and orders of the House.

Messrs. D. Foster, Macon, Hannah, Freeman, Imlay, Sprigg, and Van Allen were appointed.

The above petitions were referred thereto.

Mr. D. Foster said it was necessary the House should be informed what business remained unfinished from last session, and moved that a committee of revision and unfinished business be appointed.

Messrs. Thatcher, Thomas and New were appointed.

Mr. J. Williams moved that the speech of the President of the United States be committed to a committee of the whole House on the state of the Union. Carried.

Mr. Williams moved for the appointment of a committee of commerce and manufactures.

Messrs. S. Smith, Sewall, Waln, Rutledge, Schureman, Tillinghast and Blount, were appointed.

The House then proceeded to the appointment of a Chaplain on their part. Mr. J. Williams and Mr. Sprague were appointed tellers, who reported as follows: For Dr. Green, 55; Mr. Ustick, 3; Mr. Rogers, 4; Mr. Priestly, 1. Dr. Green was accordingly declared duly chosen. Adjourned.

Tuesday, December 11.

The Speaker laid before the House a letter from the Secretary of the Treasury, inclosing a statement from the Commissioners of the city of Washington, of their receipts and expenditures, from May 18, to November 18, of the present year, which was ordered to be printed.

A message was received from the Senate informing the House that they had elected Bishop White as their Chaplain.

Mr. S. Smith moved that a letter received from the Secretary of the Treasury, during the last session, accompanying a plan for regulating the collection of duties on Imports and Tonnage, be referred to the Committee of Commerce and Manufactures.

Mr. Macon thought, as it was the intention of this report to provide a new law on this subject, it would save time if the committee was empowered to report by bill or otherwise.—Agreed.

Mr. Harper said it would be recollect that at an early period of the late session, the House took into consideration an important subject relative to an uniform system of Bankruptcy. The bill proposed, it was well known, was then passed over, on account of more pressing concerns; but as he considered the business as of great importance, he wished to call the attention of the House to it at an early period of the present session, and therefore proposed the following resolution for adoption:

Resolved, That a committee be appointed to prepare and bring in a bill for establishing an uniform system of Bankruptcy throughout the United States.

The resolution was agreed to and a committee of five appointed.

Mr. Thatcher, from the committee of revisal and unfinished business, made a report in part, which was ordered to lie on the table.

Mr. Harper said, no member of this House could be ignorant of the use at this moment made of two acts passed during the last session of Congress. He meant the acts commonly called the Alien and Sedition laws. No one could be ignorant of the ferment which has been raised, and sedulously kept up, on account of those laws. I do know, said he, of a certainty, that this ferment has been kept up, in many places, by a misrepresentation of the contents of those laws. The possibility of doing this will be readily allowed, when it is recollect, how little newspapers are circula-

ted in the Union, and even where they do circulate, how liable the readers of them are to pass over, without much attention, any law which may appear in them. A law, said he, is not like an article of news, which if a person remember in part, he may recollect the rest;—of a law a man ought to have precise and accurate ideas, and in order to attain these, it must be read at leisure, and he must have it by him, so as occasionally to refer to it. This cannot be done at present, with respect to the laws of the United States. A comparative small number of copies only are printed; of course, they are far from being generally circulated, and the great mass of the people have no opportunity of becoming acquainted with them. I know (continued Mr. H.) that the most unfair misrepresentations have been practised. I know an instance, where, in a large assemblage of people, the bill which originated in the Senate on the subject of sedition, and which was never passed into a law, was read as the sedition law complained of, and resolutions were founded upon it. I also know, that, in another state, resolutions have been passed, not upon the laws which are reprobated, but upon a letter from a member of Congress, which contained, not perhaps, wilful misrepresentations, but certainly misrepresentations of the laws in question. In order to counteract these evils, Mr. H. said, he held a proposition in his hand, which he meant to submit to the House. And as an additional reason for moving it, he mentioned, that in an excursion which he had lately made of many hundred miles, he had met with no individual (who was not himself actively employed in spreading the misinformation which he complained of) who did not approve of these laws. He had indeed met with many who had been misinformed with respect to them; but all of these, without exception, have expressed themselves satisfied that the laws are wise and constitutional measures, when made acquainted with their contents. In order, therefore, to enable the people to judge for themselves upon this subject, to do away the misrepresentations so industriously propagated respecting them, and to defeat the attempts which he believes were made by some to produce an *armed opposition* to them, he offered a resolution to the House to the following effect:

“ Resolved by the Senate and House of Representatives, That the Secretary of State be and he is hereby authorized to cause to be printed throughout the United States, copies of two acts passed during the last session, the one entitled “An Act respecting Aliens,” the other “An Act in addition to an act for the punishment of certain offences against the United States, and for other purposes.” Ordered to lie on the table.

Mr. Sprague called for the order of the day on the President’s speech.

Mr. Macon said, it was unusual to enter upon this business until an answer was returned to it. The speech was at present, before the committee appointed to draft the answer.

Mr. Sprague replied, that his intention was to refer the several matters contained in the speech, to select committees, which he thought no way connected with the speech.

The motion was negatived.

Mr. Thatcher moved an adjournment, which was negatived—only 14 votes appearing for it; but a little time after,

Mr. Rutledge observed, that as he supposed the motion for adjournment had been negatived from an idea, that the committee appointed to draft an answer to the speech of the President might be ready, in the course of the sitting, to make their report, he could inform the House as one of that committee, that they would not be ready to make their report this day. He then renewed the motion for adjournment, and the house adjourned accordingly.

Wednesday, December 12.

Mr. Harper wished to lay a resolution on the table, the subject of which had engaged the attention of Congress at their last session; and as it was in substance the same with a bill which then passed this house, he trusted no objection would be made to it. It was as follows :

Resolved, That if any state against which a balance was reported by the Commissioners appointed to settle the accounts between the United States, and the several states shall, within either pay into the treasury of the United States, or expend, or by a legislative act engage to expend, in executing, enlarging or completing any fortifications for the defence of the said state, at such place or places, and according to such plan or plans as shall be approved by the President of the United States, and under his direction, a sum in money or in stock of the United States, equal to the balance reported as aforesaid against such state, or to the sum assumed by the United States, in the debt of such state, such payment or expenditure, when so made, shall be accepted by the United States as a full acquittance of all demands on account of the said balance; and the President of the United States shall be, and hereby is authorized to cause credit to be given to such state on the books of the treasury of the United States accordingly: *Provided*, however, that no more than one third part of the whole payment or expenditure that may be made by any such state, shall be made in three per cent. stock, nor more than one third part of the remaining two thirds shall be made in deferred stock: *And provided also*, that any such state may obtain a full acquittance, as aforesaid, by the payment or expenditure of a sum of money sufficient, in the opinion of the secretary of the treasury, to purchase, at market price, the different species of stock, the payment or expenditure of which, would be accepted as a full acquittance as aforesaid. *And provided further*, That if any such state as is indebted as aforesaid, shall have expended since the establishment of the present government of the United States, any sum of money in fortifying any

place since ceded by such state to the United States, or which may be so ceded within , such expenditure having been ascertained and proved to the satisfaction of the secretary of the treasury, shall be taken and allowed.

Mr. H. moved to have it referred to a committee of the whole this day; but Mr. Thatcher wishing that it might be printed, it was made the order for to-morrow.

Mr. Harper moved that a committee be appointed to bring in a bill further to amend the act for laying a duty on stamped vellum, parchment and paper. A bill of this kind, he said, was before the house at a late period of the last session, which the Senate postponed. As he understood the gentleman who bro't forward the subject at the last session, did not mean to renew it in the present, he wished himself to do so. The purpose of this bill is to correct that part of the law which subjects all the copies of foreign bills of exchange and bills of lading to the same stamp with the original, and of course makes the duty on those kind of transactions fall heavier than upon any other.

Mr. Macon suggested the propriety of appointing a committee of ways and means to which this and all other subjects respecting revenue might be referred.

Mr. Harper had no particular objection to the business taking the course which the gentleman from N. Carolina suggested, if he tho't proper to move for the appointment of a committee of ways and means; but he saw no objection to the course he himself had proposed—it was that taken last session.

A committee of three was appointed.

Mr. Harper called up the resolution which he yesterday laid upon the table, respecting the publication of an extra number of copies of the Alien and Sedition laws, to be distributed gratis throughout the United States.

Mr. Nicholas had no objection to the publication of the laws in any manner which might be tho't proper. The reasons which had been given for the extraordinary publication of the laws in question, were founded upon facts which had come within the mover's own knowledge, and from others which he said he had learned from his friends. Mr. N. could not help suspecting the gentleman had been misinformed; but as he had stated that certain public meetings had acted upon false information, rough drafts of bills, and other papers, which discovered the extremest ignorance, he should be glad if the gentleman from S. Carolina would indulge the house with the evidence which he possessed upon this subject.

Mr. Harper had no objection to indulge the gentleman from Virginia, and if an indulgence, the house, with the information which he required. When he introduced this motion, Mr. H. said he stated three matters of fact, two of which he asserted to be within his own knowledge, the other he mentioned to have re-

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Mr. Harper had no objection to indulge the gentleman from Virginia, and if an indulgence, the house, with the information which he required. When he introduced this motion, Mr. H. said he stated three matters of fact, two of which he asserted to be within his own knowledge, the other he mentioned to have re-

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ceived from authority which he could not doubt—which was, that at a public meeting, when resolutions of an extraordinary and hostile complexion, were passed upon the subject of these laws, in one of the harangues which preceded these resolutions, and upon which the resolutions were apparently founded, a person read, not the law commonly called the Sedition Law, but the draft of a bill which was reported in the Senate, which there underwent a total alteration, and was in this house further amended. This fact, tho' not founded upon his own information, was told him by an eye witness. The meeting, he said was held in Louisa County, Virginia; and if the gentleman wished to know the name of the man, he would give it to him when he sat down, but he did not think it proper to mention names on that floor.

The other two facts were these. One related to certain resolutions passed in Kentucky. He believed he did not before mention where they were passed, but he did not hesitate now to do it. He stated that these resolutions had every appearance of being founded upon a letter written by a member of Congress, which letter he had read, and which contained, what perhaps were not wilful misrepresentations; indeed, from the character of the gentleman, he most suppose them unintentional misconceptions; but the letter certainly contained gross errors, for the law is stated as laying the most unjustifiable restraint on speech, which was not within the purview of the act. The third fact came within his own observation. It was, that, in no instance, had he met with any individual, not himself actively employed in misrepresenting these laws, or a most zealous party man, who was not upon hearing their contents simply stated, convinced of their wisdom and propriety. He had indeed met with many well intentioned people who had conceived prejudices of so strong a nature against these laws, that they could not view them but thro' a perverted medium; but every man not of his description, or still worse, expressed his astonishment that such pains should have been taken to produce so much discord with respect to them.

Tho', said Mr. H. the gentleman from Virginia may not have met with persons of this description, yet he himself had, and upon this statement of facts, he had founded his motion. And he believed it to be of primary importance, for whatever may be the intention of gentlemen who promote the measures which he complained of; whether the persons who stand by and say these resolves pass unanimously, intend to follow them up by acts, he knew not; but said he, if these measures have any meaning, or the persons any consistency in their conduct, they must mean, and he supposed they did mean *an armed opposition to these laws, and consequently to this government.* He hoped these effects would not take place; but it had been heretofore seen, that similar proceedings in another part of the Union, in reference to a former law, had produced the same lamentable catastrophe. He saw the same steps pursuing now

that were then pursued; the same inflammatory resolutions, and the same tumultuous assemblies of the people. The best way of counteracting these designs, in his opinion, was to give the people correct information with respect to these laws. He believed that the great body of the citizens of this country are ready to give a hearty support to these and all the other acts of government; but he knew the laws in question are not understood in various parts of the Union, and that discontents exist, which would be removed by a simple publication of them. He was also convinced, that if even this should not be the case, the publication could have no other than a good effect. In a matter, however, which so materially concerns the rights of the people, they ought to have full information, which must, he was convinced, produce general content. But if on the contrary, these laws are as full of mischief as they are represented to be, their publication will increase the present discontent on account of them, so that gentlemen who have always been opposed to them ought not to object to their publication; for his own part, he wished truth to have its full force, and therefore did he advocate his motion.

Mr. Nicholas said, he had not the least objection to the proposed publication. As to the general charge of ignorance, which the gentleman from S. Carolina had made against the people whom he had conversed with in his travels, he excepted it, as he knew that gentleman had always been in the habit of setting down all opposition to his own opinions to the account of ignorance. With respect to the fact, it had turned out also as he expected. Upon the information of a single man, that a certain public meeting had acted upon the first draft of a law, instead of the law itself, he has thought proper here to assert the fact. He could inform the gentleman from S. Carolina, that there were in the quarter alluded to, friends of administration as respectable for accuracy and information, as himself, and that a man of this description was chairman of the meeting in question. With respect to the Kentucky resolutions, the gentleman from S. Carolina states, he is induced to believe, from concomitant circumstances, as he now understands, that they must have been founded upon the letter of one of their members, tho' he understood him as saying, yesterday that he knew it was the fact. As the gentleman, however, has been so successful in his justification of these laws on his travels, he would advise him to suspend this business for a time, until his own observations accompanied a publication of the laws; for, if nobody else does it, he would assure him, that, as soon as the seats of the house shall be a little better filled, he would himself move a repeal of these laws. For his own part he had never met with a man in Virginia, favorable to these laws, who was not possessed of all the arguments which had been used in support of them in this house, however, since the gentleman from S. Carolina supposed them so grossly ignorant, he had no objection to their receiving all the light he could throw upon the subject.

The question on a postponement was put and negatived, 42 to 23.

The question was put for filling the blank with 100,000, which was negatived, 12 votes only being in favor of it, then upon 50,000, which was negatived, 36 to 31; then upon 40,000, in favor of which only appeared 40 votes; then upon 20,000, which was carried; 42 votes being for it.

The question was now on the resolution as amended.

Mr. Dawson said, if the house was determined to take the sense of the house upon this resolution at present, he should move an amendment of the kind which he had mentioned; but he would rather that the resolution might be committed, that he might prepare his amendment against to-morrow.

After some objections, to this motion, by Mr. N. Smith, as being unnecessary, when all seemed willing to vote for the resolution, the motion was put and negatived without a division.

Mr. Venable then moved a postponement till to-morrow, in order to give time to his colleagues to prepare his amendment.

The motion was carried, being 42 votes for it.

Mr. Dana, from the committee appointed to draft a respectful address in answer to the President's speech, made a report, which was committed for to-morrow. Adjourned.

Thursday, December 13.

The Speaker laid before the house a letter from the Secretary of the Treasury, accompanying sundry statements exhibiting the amount of duties arising from domestic distilled spirits and stills for the year ending on the 30th of June 1797, also on sales at auction, refined sugar, carriages and retailers' licences, to the close of 1797, together with a letter from the Commissioner of the Revenue on the subject, which were ordered to be printed.

On motion of Mr. Dana, the house resolved itself into a Committee of the whole on the address yesterday reported in answer to the speech of the President of the United States, and Mr. Dent having taken the chair, the address was read as follows, omitting the words printed within crotchets, which were added as amendments: The words printed in Italics were struck out in the discussion, so that the address to be presented to the President contains the words printed within crotchets, and does not contain those printed in Italics.

JOHN ADAMS,
President of the United States.

SIR,

THE House of Representatives unite with you in deplored the effects of the desolating malady by which the seat of government and other parts of our country have recently been visited. In calling our attention to the fatality of its repeated ravages, and in-

witing us to consider the expediency of exercising our constitutional powers, in aid of the health laws of the respective states, your recommendation is sanctioned by the dictates of humanity and liberal policy. On this interesting subject we feel the necessity of adopting every wise expedient for preventing a calamity so distressing to individual sufferers, and so prejudicial to our national commerce.

That our finances are in a prosperous state, notwithstanding the commercial derangements resulting from this calamity, and from external embarrassments, is a satisfactory manifestation of the great extent and solidity of the public resources. Connected with this situation of our fiscal concerns, the assurance that the legal provisions for obtaining revenue by direct taxation will fulfil the views of the Legislature, is peculiarly acceptable.

Desirous as we are that all causes of hostility may be *extirpated* [removed] by the amicable adjustment of national differences, we learn with satisfaction, that in pursuance of our treaties with Spain and Great Britain, advances have been made for definitively settling the controversies relative to the southern and the north-eastern limits of the United States. With similar sentiments have we received your information, that the proceedings under commissions authorized by the same treaties afford to a respectable portion of our citizens, the prospect of a final decision on their claims for maritime injuries committed by subjects of those powers.

It would be the theme of mutual felicitation, were we assured of experiencing similar moderation and justice from another power, the French Republic] between whom [which] and the United States, differences have unhappily arisen. But this is denied us by the ultimate failure of the measures which have been taken by this government towards an amicable adjustment of those differences, and by the various inadmissible pretensions on the part of that nation.

The continuing in force the decree of January last, to which you have more particularly pointed our attention, ought of itself, to be considered as demonstrative of the real intentions of the French government. That decree proclaims a predatory warfare against the unquestionable rights of neutral commerce : which [with] our means of defence, our interest and our honor, command us to repel. It therefore now becomes the United States to be as determined in resistance as they have been patient in suffering, and condescending in negotiation.

While those who direct the affairs of France persist in the enforcement of decrees so hostile to our essential rights, their conduct forbids us to confide in any of their professions of amity.

As therefore the conduct of France hitherto exhibits nothing which ought to change or relax our measures of defence, the policy of extending and invigorating those measures, demands our sedulous attention. The sudden and remarkable advantages which this

country has experienced from a small naval armament, sufficiently prove the utility of its establishment. As it respects the guarding of our coast, the protection of our trade, and the facility of safely transporting the means of territorial defence to every part of our maritime frontier, an adequate naval force must be considered as an important object of national policy. Nor do we hesitate to adopt the opinion, that, whether negotiators with France are received or not, vigorous preparations for war will be alike indispensable.

In this conjuncture of affairs, while with you we recognize our abundant cause of gratitude to the Supreme Disposer of events for the ordinary blessings of Providence, we regard, as of high national importance, the manifestation in our country of a magnanimous spirit of resistance to foreign domination. This spirit merits to be cherished and invigorated by every branch of government, as the inestimable pledge of national prosperity and glory.

Disdaining a reliance on foreign protection; wanting no foreign guarantee of our liberties; resolving to maintain our national independence against every attempt to despoil us of the inestimable treasure, we confide, under Providence, in the patriotism and energies of the People of the United States, for defeating the hostile enterprises of any foreign power.

To adopt with prudent foresight such systematical measures as may be expedient for calling forth those energies wherever the rational exigencies may require, whether on the ocean, or on our own territory—and to reconcile with the proper security of the revenue, the convenience of mercantile enterprize, on which so great a proportion of the public resources depend—are objects of moment, which shall be duly regarded in the course of our deliberations.

Fully as we accord with you in the opinion, that the United States ought not to submit to the humiliation of sending another minister to France, without previous assurances sufficiently determinate that he will be duly accredited, we have heard, with cordial *acquiescence* [approbation] the declaration of your purpose steadily to observe those maxims of humane and pacific policy, by which the United States, have hitherto been governed. While it is left with France to take the requisite steps for accommodation, it is worthy the Chief Magistrate of a free people, to make known to the world, that justice on the part of France will annihilate every obstacle to the restoration of a friendly intercourse, and that the Executive authority of this country, will respect the sacred rights of embassy. At the same time wisdom and decision which have characterized your past administration, assure us that no illusory professions will seduce you into any abandonment of the rights which belong to the United States, as [a] free and independent [nation.]

The several amendments passed without debate.

The committee rose; and the chairman reported the amendments, to which the house agreed, and the address passed as amended.

Mr. Thatcher said as there was no opposition to the address, he would move that it be inserted on the Journal of the house as agreed to unanimously. This motion was not agreed to.

Mr. Dana moved the usual resolution, that the speaker accompanied by the house should wait on the President with the address: and that a committee be appointed to wait on him, and to enquire when, and where he would please to receive them.

Messrs. Dana, Venable and Harper, were appointed, who before the house rose, reported that they had performed that service, and that the President had appointed to-morrow 12 o'clock to receive it at his house.

On motion of Mr. A. Foster, a petition of Nathaniel Cutler, presented last session, was referred to the committee of commerce and manufactures.

Mr. Harper said that he had been directed by the board of managers on the impeachment of William Blount (in the absence of the chairman, Mr. Bayard) to move that a member to that board be appointed in the place of Mr. Sitgreaves, (resigned.)

The House accordingly proceeded to ballot; Mr. Evans and Mr. Wadsworth were appointed tellers, who on counting the votes reported for Mr. Kittera 18 votes: a great number of other members were voted for.

The Speaker declared that there not being a majority of the whole in favor of any member, the House must ballot again: which was done accordingly and on the return there appeared 38 votes for Mr. Kittera, and he was declared to be duly chosen.

A message was received from the Senate by Mr. Otis. That he was directed by Senate to notify the House, that agreeable to an order of 3d March last, the summons had been duly served on William Blount, by the sergeant at arms, commanding him to appear before the Senate on the third Monday in December inst, to answer for high crimes and misdemeanors, and that the return had been made at the office of the Secretary of State.

The House agreeable to the order of the day, resolved itself into a committee on the resolution of Mr. Harper, respecting the balances due from certain states to the United States. Mr. Dent in the chair.

The resolution was reported without any amendment, and the House agreeing to it, Mr. Harper moved for the appointment of a committee to bring in a bill pursuant thereto. Messrs. Gallatin, Brookes and Sprague were appointed.

Adjourned.

Friday, December 14.

Mr. Varnum, from the committee of election, made a report, stating that the committee had examined the credentials of Messrs. Brace, Waln, Eggleston, and Spaight, new members, and found them entitled to their seats. Ordered to lie.

Mr. Sewall, from the committee appointed to prepare and report a bill providing an uniform system of bankruptcy throughout the United States, reported a bill, which being a copy of the one before the house, at the last session, was not read, but after reading the title, committed to a committee of the whole, and made the order for Monday.

Mr. Hartley supposed, as there are several new members in the house this session, and as some of the old members might not have preserved their copies of this bill, that it would be necessary to be printed. He therefore made a motion for the purpose.

Mr. Macon doubted not the clerk would be able to furnish the new members with copies of the old edition; if so, he hoped it would not be again printed. He believed the various bills which had been reported from session to session, had already cost the United States more than a thousand pounds; for, when he came first to Congress, he found the subject before the house, and it had remained ever since, and as he had no idea of its passing during the present session, he hoped if it was printed, that there would be sufficient number of copies ordered, to serve for several years. He wished the clerk to be asked whether there were not a deficiency of copies on hand.

The speaker answered that the clerk would enquire what copies are on hand.

The hour being arrived at which the President had appointed to receive the address of this house in answer to his speech to both houses, the speaker announced it, and the house withdrew for the purpose of presenting the address.

In about a quarter of an hour, the members returned; when the speaker having taken his chair, proceeded to read the answer to their address, a copy of which had been put into his hand by the President. It was as follows:

To the House of Representatives of the United States.

GENTLEMEN,

MY sincere acknowledgments are due to the House of Representatives of the U. States, for their excellent address, so consonant to the character of representatives of a great and free people. The judgment and feelings of a nation, I believe, were never more truly expressed by their representatives than by those of our constituents, by your decided declaration, that with our means of defence, our interest and honor command us to repel a predatory war against the unquestionable rights of neutral commerce. That it becomes the United States to be as determined in resistance as they have been patient in suffering and condescending in negotiation. That while those who direct the affairs of France persist in the enforcement of decrees, so hostile to our essential rights, their conduct forbids us to confide in any of their professions of amity; that no

adequate naval force must be considered as an important object of national policy, and that whether negotiations with France are resumed or not, vigorous preparations for war will be alike indispensable.

The generous disdain you so coolly and deliberately express, of a reliance on foreign protection, wanting no foreign guarantee of our liberties, resolving to maintain our national independence against every attempt to despoil us of this inestimable treasure, will meet the full approbation of every sound understanding, and exulting applause from the heart of every faithful American.

I thank you, gentlemen, for your candid approbation of my sentiments on the subject of negotiation, and for the declaration of your opinion, that the policy of extending and invigorating our measures of defence, and the adoption with prudent foresight, such systematical measures as may be expedient for calling forth the energies of our country, wherever the national exigencies may require, whether on the ocean or on our own territory, will demand your sedulous attention.

At the same time I take the liberty to assure you, that it shall be my vigilant endeavour, that no illusory professions shall seduce me into an abandonment of the rights which belong to the United States, as a free and independent nation.

JOHN ADAMS.

United States, Dec. 14, 1798.

The reading of the President's answer being finished,

Mr. Harper moved that the house go into a committee of the whole on the state of the Union, for the purpose of taking up the President's speech; which motion being agreed to, and the committee formed,

He proposed the following resolutions :

1. Resolved, as the opinion of this committee, that so much of the speech of the President of the United States, to both houses of Congress, at the commencement of the present session, as relates to the expediency of establishing suitable regulations in aid of the health laws of the respective states, for preventing the introduction of contagious diseases, be referred to a committee, with power to report by bill or otherwise.

2. That so much of the said speech as relates to the extending and invigorating the measures of defence heretofore adopted by the government of the United States, be referred to a committee.

3. That so much of the said speech as relates to the naval establishment and to the augmentation of the navy, and the adoption of systematic measures for procuring timber and other supplies, be referred to a committee.

4. That so much of the said speech as relates to a revision of the system by which the collection of that part of the revenue which

arises from duties on merchandizes imported, is now regulated, be referred to a committee of commerce and manufactures.

The first resolution was taken up; when Mr. Dayton (the speaker) said, he could see no reason why this resolution ought not to be referred to the committee of commerce and manufactures, as well as the last, since the power of Congress to act on this subject, is derived from their power to regulate commerce.

Mr. Harper had no doubt the committee of commerce and manufactures was well selected for the purpose of acting on this subject as any other committee might be;—but he could see no connection betwixt the preservation of health and the regulation of commerce. It was true, that the regulations for this purpose might ultimately have some effect on commerce, and therefore it is proper that the proposed measures should be taken by Congress, but this does not necessarily connect the two subjects. He was not however, tenacious as to the mode he had proposed; but thought it the best.

Mr. Dayton moved to amend the resolution, by making the reference to the committee of commerce and manufactures; as the gentleman from South Carolina himself, tho' he had at first denied any connection between commerce and this subject, afterwards shewed the connection to be intimate.

Mr. Macon thought it would be best to leave the resolution blank, and let the reference be determined in the house. If the subject was referred at all, it certainly ought to go to the committee of commerce and manufactures.

The question on the amendment was put and carried.

The question returning to the resolution,

Mr. Venable suggested to the mover of this resolution, the propriety of modifying it so as that the committee of the whole might determine merely upon the principle. He thought it improper for a committee of the whole to make references—they ought to be made in the house.

Mr. Harper did not approve of the course proposed by the gentleman from Virginia, as, when a positive affirmative proposition is proposed in the first instance, it never fails to produce a premature discussion. This had been heretofore complained of, and at the last session the mode which he now proposed was adopted, a select committee reports in detail, and the house can act more understandingly in this way, than when called to vote upon an abstract proposition.

The question was put upon the resolution and carried.

The second, third and fourth resolutions were agreed to, without debate.

The committee then rose, and the house took up and concurred in the resolutions. Committees of seven members each, were appointed, to carry into effect the second and third resolutions.

That part of the report of the committee of revisal and unfinished business was next taken up and agreed to, which proposes that

all petitions depending and undecided in the last session, ought to be taken up and acted upon as they may be called for by any member, or upon the application of the individual claimant or petitioner.

Mr. Dawson moved for the appointment of a committee to bring in a bill for the enumeration of the inhabitants of the U. States.

Mr. Harper suggested the propriety of letting this subject lie until a committee of ways and means was appointed, as a bill of a similar kind originated with that committee at the last session, and there would be propriety in letting the business have the same course at present.

Mr. Dawson had no objection.

Mr. Harper moved for the appointment of a committee of ways and means, agreeably to the standing rules and orders of the house. The motion was agreed to.

He then moved that the said committee consist of nine members.

Mr. Nicholas hoped, as this is a very important committee, it would consist of sixteen, which is a member from every State of the Union.

This was objected to by Mr. Harper, on the ground of its being difficult to get so large a number of members together to do business, stating also the idea as fallacious that there was more complete knowledge on fiscal matters in so numerous a committee, than in a smaller, as wherever information was wanted from States not represented in the committee, it was always easily obtained by enquiries of the members from those States.

After the remarks of several members, which relate chiefly as to the manner of putting the question, two of the States, viz. Delaware and Kentucky, being at present unrepresented. At length it was determined that the sense of the house should be taken on 14, and when the representatives of those two States arrived, a motion might be made to increase the committee to 16, and the Speaker would of course select a member from each of those states.

The question on having the committee consist of 14 members was accordingly put, when there appeared to be 34 votes in favor of it, and 34 against it. The Speaker declaring himself in the negative, the question was not carried.

The sense of the house was then taken on nine, and it was carried 35 to 30.

The Speaker informed the house that there was now no order of the day, except the resolution of the gentleman from South Carolina, respecting an extra publication of the Sedition and Alien laws.

Mr. Harper wished this order to be taken up; when Mr. Dawson brought forward the amendment which he proposed, of printing along with these acts certain parts of the Constitution, supposed to be infringed by them, and others on which they are alledged to be supported.

This motion occasioned a considerable debate. On a suggestion from Mr. Harper, that it was improper to publish extracts from the Constitution, but that if the motion was for printing the whole of it, he would not object to it. Mr. D. varied his motion, so as to include the whole of the Constitution, with the amendments which are now a part of it.

This motion, after considerable debate, was taken by yeas and nays, and negatived, 41 to 35.

Mr. Dawson then renewed his motion for printing certain parts of the Constitution with these laws, which was negatived, 47 to 29.

Mr. Josiah Parker next moved to have the amendments of the Constitution, now become a part of it, printed with these acts.—This motion was negatived 45 to 32.

The question was then taken on the original resolution as moved by Mr. Harper, and negatived 45 to 34.

The house having taken up Mr. Harper's proposition for printing 20,000 copies of the above laws, to be distributed gratis, throughout the United States,

Mr. Dawson said, when the subject was the other day before the house, he had no objection to the resolution, as it had ever been his wish to give the fullest information to his constituents—nay, that he was disposed to favor it, though from reasons, he believed, different from those which actuated the mover of it, as he doubted not a thorough knowledge of these laws would insure their repeal. But he then, and now, thought that it was prematurely brought forward; that gentlemen might have waited, at least, until the fate of an intended proposition for the repeal of these laws was known; especially when it is recollectcd that no effect can be produced by the measure during the present session. It was under this idea that he had moved for a postponement of the decision; but as that motion was negatived, he presumed it was the pleasure of the house to act upon the resolution at present, and therefore he wished to make the information as complete as possible. He would move to have printed with these laws, all the parts of the Constitution which appeared to him to relate to the subject, as well those which may be supposed to give the power to Congress, as those which prohibit the exercise of it. If he had omitted any, he should readily agree to their insertion. Mr. D. then moved to add the following, "and the eighth section, and first and second clauses of the ninth section of the first article; the first section, and the third clause of the second section of the third article of the Constitution of the United States; and the third, seventh, eighth, eleventh and twelfth articles of amendment which now form a part of the said Constitution."

Mr. Rutledge said, as he wished to have a correct understanding of the intention of the mover of the amendment, he wished to be informed whether he believed there was any portion of the citizens of the U. States who had not read the constitution, or whether, in his opinion,

there were any parts of the Union in which it had not been promulgated? His colleague in justification of his having moved for a further promulgation of two laws passed in the last session of Congress, had stated, as facts of his own knowledge, that in certain parts of the Union, where discontents had been manifested, and where resolutions have been entered into censuring the sedition and alien laws; that discontents had been generated by misrepresentation of the provisions of those laws; that resolutions censuring them as unconstitutional had been procured, not by circulating and promulgating what were the laws of the land, but by distributing and publishing copies of two bills which had projected in the Senate, and which did not pass either house of Congress, and which were very dissimilar to the existing laws. With the knowledge of these facts, it might be proper for the national legislature to order an additional publication of the sedition and alien laws, for the purpose of diffusing a knowledge of them, and removing those errors and prejudices which had been created by false copies and gross misrepresentations. But why these laws were to have annexed to them certain parts of the constitution, which the opposers of the laws in question had declared were violated by them, he could not understand, unless there were parts of the United States where the constitution could not be procured: if the gentleman from Virginia would declare that to be the case, he would vote for the amendment, but he would not vote for it when intended (as he believed it to be) as "an appeal to the people"; that measure had been abandoned in the country where it had its origin, and where its practice had been marked by every species of disorder; and he was not disposed to adopt this popular measure. Mr. R. said it was not to be wondered at, that in some parts of the Union, ebullitions of discontent had occurred when the invitations were remembered which accompanied the sedition bill to the people to resist it. Certain gentlemen had declared it unconstitutional, and expressed their wish that the people would resist its execution; our constituents had been told by them that to rebel against this law which invaded their constitutional rights, was a duty they owed their country. When he recollects these attempts to agitate the country, he was surprised that our citizens had discovered so much patience, wisdom and good sense as they had by their ready acquiescence in the execution of laws, which many members of Congress had been active in representing to be unconstitutional. They had, however, after a very learned debate, and persevering opposition, been deemed constitutional by majorities in both houses of Congress. The Judges, who had acted under them, had declared them to be perfectly constitutional, and he was not disposed to make an "appeal to the people" to know whether they deemed them constitutional, but if any gentleman would declare that there was a difficulty in any part of the country in obtaining copies of the constitution he would have no objection to voting the distribution of

• necessary number : He suspected however that this was not precisely the object of the amendment.

Mr. Harper desired to pass by the extreme futility of publishing to the people, at this day, parts of a constitution which had been in force ten years, and the excessive futility of such an idea : but he would say, that if the gentleman would extend his amendment to the whole constitution, his motion would be better deserving of consideration. For if these extracts which he proposes were published, who can tell that the gentleman himself might not tell his constituents that they were not true extracts. If it were thought that the people want information with respect to an instrument to which they have so frequently expressed their attachment, let the whole be printed. He would not object to the printing of 50,000, or even 500,000 of them. But what, said he, would the gentleman have thought of me, if instead of printing the whole of the laws in question, I had proposed to make extracts from them ? He would certainly have treated the subject with laughter instead of argument. Indeed, he thought the making a proposition like the present, was trifling, and sporting with what ought to be held sacred, the laws of the land.

Mr. Dawson did not think the gentleman from South-Carolina first up (Mr. Rutledge,) had treated him with candour. He ought to have recollect that the original proposition did not come from him ; that he had moved a postponement of it ; that he had proposed to add to it, not only those parts of the constitution which militate, in his opinion, against the laws, but those said to be in favour of them. For his own part, he did not believe that the people of the United States are so ignorant with respect to these laws as they had been represented ; but if it were thought necessary to make the proposed publication of them, he was convinced it was still as necessary to print the parts of the constitution which he had proposed.

Mr. S. Smith understood, that the ground upon which the gentleman from South Carolina, had brought forward his motion, was to remove certain misrepresentations which had been made of these laws. He alluded, particularly, as he thought, to the state of Virginia. For his own part he believed that state as well, perhaps better informed with respect to these laws than any state of the union, for they are made there the criterion of their elections. They are therefore, every where read and discussed pro and con. What, said Mr. S. is the representation of these laws complained of ? They are represented as unnecessary and unconstitutional. Will the simple publication of these laws do away this opinion ? Certainly not ; because when the people read the laws they will not have the Constitution to compare with them. Mr. Harper interrupted Mr. S. to deny that he had said this was the ground of complaint, but that the provisions of the law are misunderstood, and that their contents are not correctly known. Mr. S. said, he

understood the gentleman, but he believed the unconstitutionality of these laws is what is most complained of ; and this was the principal reason why their passage was so warmly opposed in this house. He was of opinion, therefore, if the laws were sent out to the people, these parts of the Constitution ought to go too ; but he saw no occasion for either.

Mr. Harper said, he did not particularly allude to Virginia ;— nor did he mention any place, until he was called upon to do so. He spoke of the Southern States generally : and particularly of his own State. He did, however, believe that these laws are as much misunderstood in Virginia, as any where.

Mr. Sprig observed, that the gentleman first up from South Carolina, had said, that if any gentleman would state to the house that his constituents are not in full possession of the Constitution, and the amendments which have been added to it, he should think the present amendment necessary. He would mention a circumstance which took place at a public meeting held for an electioneering purpose in his district, which ought to convince him that at least the amendments to the Constitution are not generally known. One of these acts was spoken of at this meeting as unconstitutional ; when a gentleman of great respectability (if property can make man so) held in his hand the Constitution of the United States, to support the opposite opinion ; and when he was referred to one of the amendments, as materially affected, he said, that the amendment was not to be found in *his* Constitution nor had he ever heard of any amendments being added to the Constitution.

Mr. Gordon, said, the original motion was only supportable from the nature of the laws and the period of their duration. If promulgated only in the usual way, they would scarcely be known before they expired, and he was therefore in favor of this extraordinary publication ; for one, if not both of the laws, was to continue in force only two years. The laws intended to be permanent, he believed, were sufficiently known by the ordinary mode of publication.

But said he, we are now called upon to circulate sundry parts of the Constitution. Upon what principle is this founded ? Could it be supposed that gentlemen would agree in any selection of passages from the Constitution ? It could not ; every one would wish to have such parts printed as favored his own opinions. But what was the object of this selection ? To enable the people to decide whether these laws are constitutional or not. What would be the consequence ? a mob, or large collection of people, will be brought together to decide this question. The consequence seems to be this, that if they determine them to be unconstitutional, they will also determine to oppose their execution. Gentlemen surely do not contemplate such an effect as this ; and if not, they ought not to be desirous of calling the attention of the people to these laws in the way proposed. Gentlemen had said, that these laws were made

the touchstone at elections in certain quarter of the Union : if so, it certainly would be impudent in this house to send out any thing which might affect those elections, by declaring men of a certain opinion friendly, and those of an opposite opinion, unfriendly, to the constitution. Indeed, he saw no ground upon which the proposed publication of parts of the constitution could be founded. The constitution itself, he believed, is in the hands of almost every citizen. He should blush for his constituents, many of whom have sworn to support it, did he suppose that any considerable number of them, were unacquainted with the whole of its contents. He hoped therefore the motion would be negatived.

Mr. Eggleston rose to move a postponement of this question. Being a new member, and unused to speak in public assemblies, it was with reluctance that he offered his sentiments. But the motion which he proposed, was founded on the idea that an attempt would be hereafter made to repeal these laws, which he trusted would be successful. He was unwilling therefore, that the minds of the people, which are in many parts of the Union, (he knew it was the case in the district from whence he came) already sufficiently irritated, should be wounded unnecessarily by a measure of this kind, which would be wholly useless, if a repeal takes place. And he trusted, if these laws should appear neither called for by the exigencies of the times, nor warranted by the Constitution, a majority of Congress would not insist upon continuing them in force, merely to shew their power, or their infallibility. [The Speaker said, he was sorry to interrupt a new member, but he was under the necessity of informing him that he was departing from order.] Mr. E. said he meant to shew by his observations the propriety of a postponement. The Speaker replied that they were wholly out of order, and as no member could answer any observations upon the merits of the laws ; all remarks must be confined to the proposed extra publication. Mr. E. saying he wished to comply with the rules of the house, sat down.

Mr. Nicholas seconded the motion for a postponement, it was put and negatived, there being only 25 votes for it.

Mr. Dawson said, from what had fallen from the gentleman from S. Carolina (Mr. Harper) and others, he was induced to withdraw his motion, and to move the following addition to the original motion, " and the Constitution of the U. States as now amended."

Mr. W. Calborne hoped this amendment would be agreed to. It would be diffusing amongst the people information highly important, and information of which they at present stood in need. He would undertake to say, that the people whom he represented wanted this information ; and he believed it was generally wanted throughout the western country, as the Constitution, and especially the amendments which have been added to it, has not been so generally circulated as he could have wished ; and except this amendment succeeds, the alledged object of the mover of the original

proposition, would not be answered. What was that object? It was to circulate information respecting these laws, because for want of it, the minds of the people had been fermented by misinformation. But permit me, said Mr. C. to tell that gentleman, that the parts of the country to which his observations apply, are not misinformed as to the contents of these laws. In Kentucky he had been informed they had been circulated in the form of handbills, and that there are few persons who could not produce a copy of them; but he believed, few persons, comparatively, possessed copies of the constitution as amended. The expediency of these laws, he said, had been a secondary consideration with the people; their primary objection to them is, that they are violations of the constitution. And if the people have been misled as to this point, and not as to the details of the laws, this amendment must be conceded to be proper. Mr. C. said he should be glad to take any step which might be calculated to allay the present fermentation of the public mind with respect to these laws, which he believed existed in an alarming degree in certain parts of the Union. If a publication of the constitution would do it, it would be well. At any rate, it would have no bad effect; for if these laws are constitutional, and the gentleman from South Carolina says the judges have declared them so, this publication may convince the people of their error, and disappoint those, if such there be, who wish to mislead them. It was his wish that the General Government should receive, and he hoped it would receive from the people, all the respect to which it is entitled.

Mr. Thatcher agreed with the gentleman just sat down, that the people in the western country were greatly misinformed; but he did not believe it was either with respect to the constitution, or these laws, but on moral subjects. [The speaker said, no remark of this kind could possibly be in order.] Mr. T. said he was about to state facts, from which he meant to draw an argument against the publication of the constitution. If any conclusion could be drawn from the speeches of their governors and legislators, and public meetings, it is evident they are misinformed, and in a state of ignorance, not of the constitution or of the laws in question, as when they quote either they quote them correctly. These speeches and resolutions have appeared in newspapers in the hands of their clerks and agents. It was not political information which these people were in want of, but moral information, correct habits, and regular fixed characters. (Mr. Nicholas enquired whether the gentleman was in order? The Speaker replied that very many of his remarks were not in order.) After a few other observations on the people's want of moral information, Mr. T. sat down.

Mr. Clopton called for the yeas and nays on this question, which were agreed to be taken.

Mr. Gallatin did not know that there was any great necessity for publishing the constitution in the manner proposed ; but this he was convinced of, that there was as much necessity for the proposed amendment as for the original resolution ; and that therefore, if the resolution was adopted, the amendment ought to be adopted also.

It had been said by gentlemen, who seem in favour of printing these two laws, and not the constitution, that the laws are not known ; but that the constitution is known. He believed those gentlemen lie under a mistake. These laws have been published again and again in every part of the Union, whereas the constitution as amended, has never been published and promulgated. The original constitution had indeed been published, and is generally in the hands of the people ; but as to the amendments, many persons do not know how many of them have become a part of that instrument. Nor can it be ascertained any where, except in one edition of the laws, it is added by way of note, that ten of the amendments now form a part of the constitution. Can it be surprising that the people at large should be uninformed as to this point, when only two years ago, a committee of this house, to whom the subject was referred, reported it, as their opinion, that no part of these amendments were become a part of the constitution, three fourths of all the states not having concurred in them. It was true their report was reversed ; but when Congress itself has so lately determined these amendments to be a part of the constitution, it is not strange that the people should not be well-informed on the subject. It may be said these arguments apply only to the amendments, but as no one could produce a publication of the constitution as amended, he wished it now, for the first time, to be published.

Have any objections been offered to this proposition which ought to have any weight ? The gentleman from South Carolina first up, complained that a publication of this kind would be an appeal to the people. He did not precisely understand what he meant ; but if a publication of the constitution can be called an appeal to the people, what will the gentleman term the proposed extra publication of the laws in question ? Has it been said that this promulgation of the laws is necessary, in order to secure the people against prosecutions under them ? Is this the object of the publication ? No ; the avowed object is, to convince the people the laws are good and expedient ; which being an appeal to the people, ought to be accompanied with the constitution.

Another gentleman from N. Hampshire has made use of a most extraordinary argument. He says the publication is necessary, because the laws expire in two years ; but he was at a loss to know by what kind of logic he makes it more necessary to publish a law in an extraordinary manner which has only an existence of two years, than a law permanent in its nature, and especially than

the constitution itself. Does he think the constitution should be disregarded, or set aside for two years, on account of these laws? This observation did not fall from him, who was always opposed to these laws, but from one of their supporters. But this gentleman had made use of an expression which he certainly had not sufficiently attended to. Speaking of the meetings, or assemblies of the people, which had been held in different parts of the United States, on the subject of these laws, he made use of the word *Mob*. He called these assemblies of the people *a mob*. This Mr. G. conceived improper, and especially at this time, when it is known that not only respectable meetings of the people have been held to consider these laws; but that the legislatures of some states have taken up the subject.

Upon the observations of the gentleman from Massachusetts (Mr. Thatcher) he would make no remark. They appeared too frivolous to merit any. So far as they went, they were as forcible against the proposition as the amendment.

Mr. Craik said, as a gentleman from Virginia had called the yeas and nays upon the present question, he wished to state his reasons for voting against this amendment. If any gentleman would declare his constituents in want of information with respect to the constitution, and after the proposition for printing these laws shall have been decided, bring forward a substantive, distinct proposition, he would vote in favour of it. He could not allow the state from which he came, however, to lie under the imputation of ignorance, with respect to the constitution, which had been cast upon it, by voting for the present amendment. He hoped the instance which his colleague had mentioned was a solitary one. Nor could he agree to publish these laws and the constitution by way of calling the attention of the people to them. He was sorry the original proposition had been made. He did not think any act of Congress ought to be published more than others. The laws were supposed to be sufficiently promulgated to the people; if not, means ought to be adopted for the purpose. (The Speaker said, these observations were against the resolution generally and not the amendment.) Mr. C. wished these acts to be placed on the same ground with all other acts, and not supposed to be particularly obnoxious to the people. He should therefore vote against both the amendment and the original proposition.

Mr. J. Williams was opposed to this amendment. If the amendments to the constitution had not been sufficiently published, they ought to be so. It was derogatory to this house to suppose this to be the fact. In the state which he represented, the town clerk of every town had the laws of the United States put into his hand. He had hoped every state had done the same. When this resolution was first brought forward, it was on the ground that the newspapers did not give sufficient information on the subject, and it was on this ground that he proposed to vote in favour of the

proposition; but he could not consent at this day to publish again either the whole or parts of the constitution.

Mr. Hartley was sorry the original motion was made by the gentleman from South Carolina. It is well known, said Mr. H. that some parts of the Union are at present much agitated by these laws. If any mischief had been done by misrepresentation, that time was now past; it was done before the laws were made public; they have now been pretty generally published. The Secretary of State, said Mr. H. is employed to distribute the laws of Congress in the several states, and if the laws of the last session have not reached them, they soon will. He believed the bill which had been first introduced into the Senate had done much mischief; but he had no doubt these laws would be sufficiently circulated to do away any misinformation, without the proposed extra publication. He hoped neither the amendment nor the original proposition would be agreed to.

The question on printing the constitution along with the laws, was taken by yeas and nays as follow:

Y E A S.

Messrs. Baldwin, Bard, Blount, Brown, W. Claiborne, Clottenham, Dawson, Dent, Eggleston, Elmendorf, Gallatin, Gregg, Harper, Harrison, Havens, Heister, Holmes, Jones, Locke, Machir, Macon, Matthews, M'Clenanhan, New, Nicholas, J. Parker, S. Smith, W. Smith, Spaight, Sprigg, Stanford, A. Trigg, J. Trigg, Varnum, Venable. 35.

N A Y S.

Messrs. Bartlett, Brace, Brooks, Chapman, Cochran, Craik, Dana, Dennis, Edmond, Evans, A. Foster, D. Foster, J. Freeman, Glen, Goodrich, Gordon, Griswold, Hanna, Hartley, Hindman, Hosmer, Imlay, Morris, Otis, I. Parker, Pinckney, Reed, Rutledge, Schureman, Sewall, Shepard, Sinnickson, N. Smith, Sprigg, Thatcher, Thomas, Tillinghast, Van Alen, Wadsworth, J. Williams, Waln. 41.

Mr. Dawson then renewed his first amendment, for printing certain parts of the constitution with the laws. The question was taken by yeas and nays. The votes were the same on this question as the preceding one, except that Messrs. Brown, Harper, Harrison, Machir, Matthews and Josiah Parker, who then voted in the affirmative, now voted in the negative, so that this question was lost, 47 to 29.

The original proposition now being under consideration,

Mr. Nicholas said, lest it should be understood that those members who were in favour of publishing the constitution, or such parts of it as are connected with the subject, were opposed to the original resolution, he must, unwillingly, trouble the house with another call for the yeas and nays on this question. Agreed.

Mr. Sprague professed himself opposed to the resolution in toto, as unsuceptible of amendment, and wholly useless. He believed,

the laws which it proposed to have printed, had been more read, and are better understood, than any other laws of the United States. At any rate, having been published in the usual and ordinary mode, he was not willing to give his consent to any special publication of them; for, if asked why it had been done, he could not give a good reason for it. If any principle, said he, is more fixed, in a Republican government, than another, it is, that majorities ought always to govern; and these laws having been passed by a majority of Congress, they must be considered and obeyed as constitutional and proper.

Mr. Thatcher said, it appeared to him that the ground of this motion had been put upon a wrong footing. It seemed as if the object was to enable the people to determine whether the laws in question are constitutional or not; whereas the object is, to inform the people of the contents of these laws, that, knowing them, they may not offend against them. When a tax was laid upon carriages, which a certain part of the union conceived to be unconstitutional, they brought the question before the Judiciary, and when the law was there determined to be constitutional, it was acquiesced in.—Where would be the use of sending out the constitution with these laws, for the purpose of examination by the people? For, if they were to determine them unconstitutional, they would nevertheless be liable to prosecution for a breach of them. He hoped the question would be thus understood.

Mr. Josiah Parker thought this proposition yet capable of amendment. It has been agreed that the constitution is well understood, and that these laws are also pretty generally known; but as the amendments to the constitution, it is acknowledged, have not been sufficiently promulgated, he should propose to amend the resolution, by adding to it, the amendments of the Constitution agreed to in the year 1789. Mr. P. said, he had, in the first instance, voted for the publication of the constitution as amended, with the two laws, as it might have given satisfaction to some, though he believed the great mass of the people did not stand in need of another edition of the original constitution; he had voted against publishing extracts from that instrument, because he thought it unfair to publish it in parts; but as these amendments are little known, he wished to see them published.

Mr. Hartley observed, if the people of this country are not acquainted with the amendments which have been made to the constitution, the subject can be acted upon at any time; but he hoped neither the original proposition, nor this amendment, would be agreed to. The publication, said he, will imply that our conduct has not been what it ought to have been, by our calling for an extraordinary examination of it. If the subject was separately brought forward, he would not object to the publication of the amendments to the constitution.

The question on adding the amendments of the constitution, was

then taken by yeas and nays. They were the same as on the last question, except that Messrs. Harrison, and Josiah Parker, who voted then in the negative, voted now in the affirmative; also Mr. Van Cortlandt, who did not vote on the former question, now voted in the affirmative: Mr. Champlin, who was not present on the former questions, voted in the negative on this; and Mr. Bartlett was not present—so that the question was negatived 45 to 32.

The question, of course, recurred upon the original resolution, when,

Mr. Edmond rose, and said, that when this resolution was first laid upon the table, on hearing the observations of the gentleman who made it, that in the course of his travels he had met with a number of gentlemen unacquainted with these laws, stating also a general ignorance of the people with respect to them; that certain rough drafts of bills had been read for the sedition law, it occurred to his mind, that the first view of the legislature, after passing laws, being to make them known to the people, if these laws are not sufficiently known, they ought to be. It struck him also, that as certain incendiaries appeared to be taking advantage of this ignorance, it afforded an additional reason for making them known as soon as possible; he had therefore determined to vote for them. But after seeing the several amendments which had been proposed, and hearing the arguments adduced against the measure; when he was informed by the gentleman from Pennsylvania, and others, that these laws had been printed in handbills, and published more than any other of our laws; that they had been made the groundwork for meetings and declamations of self-created orators, and of persons ill disposed towards our government, for the purpose of creating uneasiness, he saw no necessity for the publication, since the legislature had done its duty in having the laws published in the usual way; and, the original resolution being unnecessary, the amendments are equally unnecessary. It appears that both these laws and the constitution are well known; and that an extra publication of them could have no other effect than to invite the people to assemble together, once more to act over the same scenes of disorder and confusion, which have been acted too often already. He should, therefore, vote against the proposition.

Mr. Gallatin wished to set the gentleman from Connecticut right in one respect. He did not believe the gentleman from S. Carolina had said a word about any meetings in Pennsylvania; if there had been any, he himself had not heard of them.

Mr. Edmond declared he had not said any thing about meetings in Pennsylvania.

The question on the original resolution was taken by yeas and nays as follow:

Y E A S.

Messrs. Baldwin, Bard, Blount, W. Claiborne, Clopton, Dawson, Eggleston, Elmendorf, Gallatin, Gordon, Gregg, Harper,

Harrison, Havens, Heister, Holmes, Jones, Machir, Macon, Matthews, M'Clennan, New, Nicholas, J. Parker, W. Smith, Spaight, Sprigg, Stanford, Thatcher, A. Trigg, J. Trigg, Van Cortlandt, J. Williams, Varnum.—34.

N A Y S.

Messrs. Bartlett, Brace, Brooks, Brown, Champlin, Chapman, Cochran, Craik, Dana, Dennis, Dent, Edmond, Evans, A. Foster, D. Foster, J. Freeman, Glen, Goodrich, Griswold, Hanna, Hartley, Hindman, Hosmer, Inlay, Locke, Morris, Otis, J. Parker, Pinckney, Reed, Rutledge, Schureman, Sewall, Shepard, Sinnickson, N. Smith, S. Smith, Sprague, Thomas, Thomson, Tillinghast, Van Alen, Venable, Wadsworth, Waln.—45.

Adjourned till Monday.

Monday, December 17.

It appeared from the reading of the Journals, that Mess. Otis, Rutledge, Goodrich, S. Smith, Champlin, Spaight and Dent, are appointed a committee for considering that part of the President's speech which relates to the extending and invigorating the measures of defence heretofore adopted;

That Mess. Josiah Parker, Pinckney, Sewall, Champlin, Baldwin, Griswold and Van Cortlandt, are appointed a committee for considering that part of the same speech which relates to the naval establishment, to the augmentation of the navy, and to the adoption of systematic measures for procuring timber and other supplies;

And that Mess. Harper, Gallatin, N. Smith, Cochran, Jones, Isaac Parker, Hindman, Blount and Sinnickson, are appointed a committee of ways and means.

The Speaker laid before the house a report from the Commissioners of the Sinking Fund, which was read and ordered to be printed.

Mr. W. Claiborne laid the following resolution upon the table:

“ *Resolved*, by the Senate and House of Representatives of America, in Congress assembled, That the Secretary of State be, and he is hereby, authorized and directed to cause to be printed a certain number of copies, not exceeding thousands of the Constitution of the United States, together with the amendments which have been made thereto, and to cause the same to be distributed gratis throughout the United States.”—Ordered to lie.

Mr. Gallatin, from the committee directed to prepare and report a bill respecting balances due from certain States, reported a bill, which was read and committed.

Mr. S. Smith, from the committee of commerce, made a report on the petition of Nathaniel Cutler, who states that he shipped certain merchandize from Boston, which had paid the duty on importation, and were not entitled to drawback; that after the vessel had been captured and re-captured by British and French cruisers, she at length reached Dominica; but on her arrival there, the cargo was not permitted to be sold, and was therefore brought

back to the United States, and paid a second duty, which the petitioner prays to have remitted. The report was unfavorable on the ground that there had been some neglect on the part of the petitioner, and that the remission would open a door to a variety of other applications.

Mr. A. Foster called for the reading of sundry documents relative to this case, and afterwards moved to have the report committed. The motion was negatived, 32 to 31, and the report was then concurred in.

Mr. Gregg presented the petition of Robert Sturgeon, at present a prisoner in the jail of the county of Mifflin, in this state, at the suit of the United States, for having appropriated monies to his own use which he had received in his duty as collector. He prays that a law may be passed for his relief. Mr. G. moved to refer his petition to a select committee. The motion was negatived, 30 to 29.

Mr. Nicholas said, that as the law of last session for increasing the navy establishment, had given great discretionary powers to the President of the United States, he thought it proper that the House should receive some information as to what had been done in consequence of these powers, particularly as it appeared to be an avowed object to increase the navy establishment during the present session. He therefore proposed the following resolution:

"Resolved, That the Secretary of the Navy be directed to lay before this House an account of all the Armed Vessels employed in, or preparing for the service of the United States; with an estimate of the expences of their equipment, and of their annual support."

Mr. J. Parker had no objection to this enquiry; but as the committee already appointed to consider and report on the subject of the navy establishment, will certainly make this a part of their business, he did not see any necessity for this resolution. He as one of that committee, should think it his duty to give every information which could be required on this subject.

Mr. Nicholas thought if there was no objection to the information being obtained, it was not a sufficient reason for dispensing with the resolution, because a committee already appointed, might possibly make it a part of their duty to give the information required, to the house. He saw no reason if the information was necessary and proper, why the house should wait for it, until a select committee should think proper to give it to them.

Mr. Otis wished the gentleman from Virginia would suffer his resolution to lie upon the table till to-morrow. He himself should have no objection to wait for this information, until the committee which had been appointed, should give it; but if this resolution was passed, he should wish it to be more particular. He should wish to know of what force the vessels are, what part of them have been purchased, what part built and where. He agreed this was information which the house ought to possess; but was of opin-

on that a select committee had better obtain it, and lay it before the house.

Mr. Nicholas had no objection to the resolution laying till to-morrow, nor to its being made more particular.

Mr. Dawson moved that the committee of Ways and Means, be instructed to prepare and report a bill for the enumeration of the inhabitants of the United States.

Mr. Otis thought a Select Committee would be preferable to a standing committee for this business; but Mr. Macon suggesting that the law would require a considerable sum to carry it into execution, the propriety of the reference was allowed, and the motion agreed to.

Mr. Sewall renewed the motion for printing the bill relative to an uniform system of bankruptcy, as he understood there are only ten copies of the old edition on hand. Agreed. Adjourned.

Tuesday, December 18.

A message was received from the Senate informing the house, that William Blount, impeached for high crimes and misdemeanors, although duly summoned by the Senate, did not appear: and that the Senate would be ready at 12 o'clock this day to receive the managers appointed by the House to take further measures on the trial.

On the motion of Mr. Harper, the message was referred to the committee of managers: he then moved that the managers have permission to sit during the sitting of the House: which being granted, the managers withdrew, and in a few minutes returned, when Mr. Harper by their instruction, reported, That the managers were of opinion, that it would be proper for them to attend before the Senate, at 12 o'clock this day, and request a further day for preparing their proceedings in the said impeachment. The house agreed to the report.

Mr. J. Parker observed that his colleague (Mr. Nicholas) had yesterday laid a resolution on the table respecting the naval armament: if he would withdraw his motion, he was instructed by that committee to renew it on an enlarged scale, which he had no doubt would meet that gentleman's sentiments. Mr. Nicholas withdrew his motion, and Mr. Parker moved that the Secretary of the navy be directed to lay before the house a statement of all armed vessels employed in the service of the United States also of all preparing for the said service and where the said vessels were built, or are building, and by what contracts, and their respective size, force and number of men, with the name of their commanders, and a statement of their equipment, and annual expence.

The house agreed to the resolution.

Mr. D. Foster from the committee of claims reported, that John Daniels stated that he was in the service of the United States in

the early part of the war, that owing to constant marching, weakness and pains were brought on him, which disabled him for the service, he therefore prayed a pension. But as the house had already determined against allowing any military claims of that nature, it ought not to be granted. It appearing that some new information might be expected on this claim, the report was laid on the table.

It appeared from the reading of the Journals, that Messrs. Otis, Rutledge, Goodrich, S. Smith, Champlin, Spaight, and Dent, are appointed a committee for considering that part of the President's Speech which relates to the extending and invigorating the measures of defence heretofore adopted ;

That Messrs. Josiah Parker, Pinckney, Sewall, Champlin, Baldwin, Griswold, and Van Cortlandt, are appointed a committee for considering that part of the same Speech which relates to the Naval Establishment, to the augmentation of the Navy, and to the adoption of systematic measures for procuring timber and supplies;

And that Messrs. Harper, Gallatin, N. Smith, Cochran, Jones, Isaac Parker, Hindman, Blount, and Sennickson, are appointed a committee of ways and means.

Adjourned.

IN SENATE.

THE Senate having, by taking the oath required by law, formed itself into a Court of Impeachment for the purpose of trying William Blount, charged by the House of Representatives with high crimes and misdemeanors against the United States,

A letter was received from Messrs. Dallas and Ingersoll, desiring to be heard at the bar of the Senate as counsel for William Blount.

On motion, leave was granted, and the Secretary ordered to notify the House of Representatives thereof.

A little after twelve, the Managers of the House of Representatives, as well as the Counsel of the defendant, appeared at the bar of the Senate, when the President of the Senate *pro tem.* (Mr. Laurence) addressed the Managers to the following effect :

“ GENTLEMEN,

“ The Senate being formed into a Court of Impeachment, are ready to proceed in the trial of William Blount, late a Senator of the United States, impeached by the House of Representatives of high crimes and misdemeanors against the United States. It will be necessary you should be informed, that Mr. Dallas and Mr. Ingersoll have applied to be heard as Counsel in behalf of the defendant, and that leave has been given them to act in that capacity. I shall proceed to read the articles of impeachment exhibited against the defendant. [The President here read the articles of impeachment.] A copy of these articles (continued the President) together with a summons for his appearance before the bar of the Senate on the third Monday in this present month, was served upon the defendant by the Sergeant at Arms, and a due return made

thereof (which was also read.) Notwithstanding this, the said William Blount has not appeared before the Senate as required. The Court are however now ready to hear the Managers of the House of Representatives on this trial."

Mr. Harper (as Chairman of the Managers of the House of Representatives in the absence of Mr. Bayard) then addressed the Court to the following effect :

" May it please this Honorable Court,

" I am directed by the Managers of the House of Representatives for conducting the impeachment against William Blount, and also by the House of Representatives, to state the motives which have induced the House of Representatives to apply for the appointment of a future day, on which to be heard on the subject of their impeachment against William Blount. The time being so short betwixt the receipt of the message from the Honorable Senate, and the hour fixed for receiving the Managers before this Honorable Court, it did not allow them an opportunity to receive directions from the House of Representatives with respect to their future proceedings on this trial.

" May it please this Honorable Court,

" The Committee of Managers conceive, that in consequence of the message received from the Honorable the Senate, a very important preliminary question will arise in this business, and upon which the Managers of this impeachment cannot presume to act, until they have been instructed by the house of Representatives. This question is, " Whether this Honorable Court can proceed to the trial of William Blount, without his personal appearance before them." Conceiving this point to be of considerable magnitude, the Managers of this impeachment reported it as their opinion to the House of Representatives that it would be proper for them to appear before your Honorable Court at the time appointed, for the purpose of requesting that a further day may be assigned for hearing them in behalf of the House of Representatives on this trial. The Managers (continued Mr. H.) do now, therefore, appear before this Honorable Court to request the assignment of a future day in which they may be heard on this important question."

Mr. Reed wished the Chairman of the Managers would name a day to which he would wish the further proceedings on this trial to be postponed.

Mr. Harper hoped the Managers of this impeachment would be able to receive the instructions of the House of Representatives so as to appear and proceed in this business before the Senate on Monday next.

The President was about to put the question on a postponement ; when

Mr. Dallas wished to know whether any record had been made of the non appearance of Mr. Blount. This, he conceived, ought

not to be done, as he and Mr. Ingersoll appeared as Counsel in his behalf.

The President answered, that Mr. Blount's name had yesterday been called, and his absence barely noted.

Mr. Ingersoll stated, that he had applied to the Clerk of the Senate at the commencement of the session, and informed him that Mr. Blount had appointed himself and Mr. Dallas his Counsel, and requested he would inform him when any steps were taken in the Senate relative to the impeachment. That they had taken the further step of addressing a letter to the Senate on the subject, and as they had been always ready to enter upon the business, he trusted their client would not suffer on account of his absence.

The President said the Senate had been informed by the Clerk of Counsel being appointed, but had not acted upon the business till this day.

The President was about to take the question on a postponement in the usual way of taking questions in the Senate; when

Mr. Reed hoped the question on this, and all other subjects which might come before the Court, might be decided by each Member being asked his opinion separately, as was the custom in all other Courts of Justice.

The President said, as no order had been made to the contrary, he should proceed to take this question according to the usual mode of taking questions in the Senate.

The question for postponement was then put and carried nem. con.

The President then informed the Managers of the impeachment on the part of the House of Representatives, that this court will be ready to receive them on Monday next at twelve o'clock.

The managers then withdrew; when

Mr. Reed rose, and said the impropriety of taking the sense of the Court on the question which had been decided, must be apparent to all. It was lowering the dignity and solemnity of so high a Court, to proceed in the decision of questions, as if the Senate were in their legislative capacity. It was usual in Courts of Justice of every description, for the Judges to be applied to separately for their opinions; and that in all future proceedings this mode might be adopted, he made a motion to that effect.

Mr. Bingham thought, if any regulations were necessary on this subject, it would be much more proper to make them in their legislative capacity, than in their capacity as Judges. He did not think it very dignified for Judges to be arguing a question of this kind. Mr. B. said, that the mode adopted had been that which he had heretofore seen practised on a similar occasion.

The motion not being seconded, the court adjourned to Monday.

HOUSE OF REPRESENTATIVES.

Wednesday, December 19.

Mr. Gordon said, it would be recollect that when the bill for laying a direct tax upon the United States was under consideration,

certain amendments were proposed, which, for want of time, were passed over. One of these, which related to the conveyance of lands, he thought essential; and in order to bring the subject before the house he moved that the committee of ways and means be directed to enquire whether any, and if any, what amendments are necessary in that act, and that they report by bill or otherwise.

The house was about to take up the bill respecting the balances due from certain debtor states; when, on motion of Mr. Craik, the bill was ordered to be printed.

Mr. W. Claiborne called up the resolution which he laid upon the table on Monday, for causing a number of the constitution of the United States, as amended, to be printed and distributed gratis throughout the United States.

The house having agreed to take it up,

Mr. C. hoped the resolution would be agreed to, as he conceived the information which it proposed to give to the people would be highly desirable. It had been conceded by all, that the circulation of the constitution as amended, had been very limited, and that the amendments are unknown in some parts of the Union.— He said he should rejoice to see our form of government in the hands of every freeman in the country; nor, if gentlemen wished it to be understood, respected and obeyed, could recurrence be too frequently had to first principles. When the people are in full possession of these, it could not be doubted that their vigilance would preserve the constitution inviolate to the latest posterity.— How far this publication may be desirable in the eastern and middle states, he could not tell; but in some of the southern, and in the two western states, he was decidedly of opinion that it would be very acceptable.

On a former occasion, Mr. C. said, the house had been told by a member from Massachusetts (Mr. Thatcher) that the people in the western country are not uninformed as to the constitution; that it is not political information which they want, but "moral information, fixed principles and correct habits." Such language as this, Mr. C. said, need only be mentioned to be despised. [The speaker interrupted Mr. C. to say, that the member from Massachusetts was checked by the speaker at the time, and that therefore his remarks were out of order.] The remark, Mr. C. replied, had gone forth to the public, and it was certainly proper for him to state that it was *calumny*.

Mr. C. concluded by moving to strike out of the resolution the words "not exceeding—" in order to insert 50,000 copies; and as he had been informed that this number of copies might be printed for less than a thousand dollars, he hoped the number would not be objected to, since it would be money well expended.

The question on the amendment was put and negatived, 33 to 32.

Mr. C. then moved to fill the blank with 40,000 copies, which motion was carried, 33 to 32.

Mr. N. Smith supposed the question would now be on the resolution as amended. He said, he should have no objection to this publication, did he suppose it necessary; but he could not conceive what new light had flashed upon the gentleman from Tennessee, just at this moment, which made the publication more necessary, than at any former period since the adoption of the amendments of the constitution. These amendments, he said, had been regularly published in the edition of the laws which was published in 1796. Two amendments were indeed, then published, which have never been adopted; but there was a note inserted, discriminating between those which had not been adopted.—There certainly can be no objection to the constitution being in the hands of every citizen; but whether the United States ought to be at the expence and trouble of this distribution, was a question. The gentleman himself supposes that there are only two or three states which are in want of this information; and with respect to those, the printers in these states may make any publication of the constitution which they think proper; or the states themselves, or any gentleman, or gentlemen may do it. For his own part, as there had been an equal distribution of the constitution as amended, with the laws of the United States; he did not wish, by any extra publications, to make a difference betwixt the publicity of the constitution and the laws, nor betwixt certain laws, and other laws of the Union. He would treat them alike. He therefore saw no reason for voting in favor of this resolution, unless, indeed the principle were to be allowed a good one, which was on a former occasion, advocated by the gentleman from Pennsylvania (Mr. Gallatin) on the motion of the gentleman from South Carolina for printing the alien and sedition laws, that gentleman told the house that he could see no good reason for the publication, but that he would nevertheless vote for it, because, if he did not, it would be said, he was for preventing information from going to the people. Did I believe, said Mr. S. this a just ground upon which to found my vote, I ought certainly to vote in favor of the present resolution; as I have not the least doubt it will be said of those who oppose it, that they are for keeping information from the people; but, as I do not believe the publication necessary, and as I wish to consult my own understanding as to the necessity of the measure, rather than what may be said of my conduct by others, I shall vote against it.

Mr. W. Claiborne denied that he had said this publication would be necessary only for the western states; but that he had stated, he could not be certain for want of information, whether it would be equally desirable for the eastern and middle states with those of the southern and western. He believed, however, this publication would be acceptable in all parts of the Union. The amendments to the constitution, he had been informed, had been published only in Mr. Swift's edition of the laws, of which 5000 copies had been circulated throughout the United States, so that to be

possessed of a complete copy of the constitution, it would be necessary for citizens not only to have a copy of the constitution, but also a copy of the laws which, he would venture to say many of the justices and judges in many of the states, and some of the Legislatures in others, had not.

But the gentleman from Connecticut had said, that the Legislatures of the states, or individuals, might cause the constitution as amended, to be printed; but is not this, said Mr. C. a more proper subject for the National Legislature to act upon, than for any other body of men, or than for any individual? Does it not belong to them to inform the people correctly with respect to the powers vested in the general Government? It certainly did, and he was sorry to find any objection made to the motion, as he thought it of the first importance. Those, indeed, who are in the vicinity of large cities, where this information can be readily obtained, need not be anxious for the present publication; but people far removed from sources of information, cannot get copies of the amended constitution, except a publication of the kind proposed, be made.

Mr. Sewall viewed the resolution under consideration, as of little importance in itself, and if unnecessary, only an useless expence of a few thousand dollars. But instead, of being a means of information to the people, he conceived that it would operate a contrary way. At present, the same promulgation has been made of the amendments to the constitution, that has been made of the laws of the United States, 5000 copies have been printed and circulated through the Union, so that there is no part of the country where the laws and constitution cannot be easily obtained; but these copies, and this information, is continually multiplied, by making it the interest of the Printers to publish them on their own account, so that every man who wished for this information, may get it at any printing office in the country, much better than by applying to the Secretary of State for it. The wants of the people are better known in this respect by the printers than by the Secretary of State. And suppose 50,000 copies of the constitution and amendments were printed, they would not furnish a copy for every hundredth man. Who then, are to be the favored individuals to whom the copies are to be sent? He could not tell; but as any one by expending six-pence might at present purchase one for himself, he saw no necessity for the present motion, especially, since by discouraging Printers from publishing them on their own account, those who did not get a copy given them, would have to pay double price for them, on account of the decreased demand. It was on this account, Mr. S. said, that he considered the measure as calculated to restrain, rather than increase information on this subject.

Mr. Thatcher said, that when he saw this subject brought forward again and again, it struck him that the gentleman from Tennessee has got certain complex impressions upon his mind, which

he is not able to analyze. He seems to think that the people in his part of the country do not know what the constitution is ; yet if he would look back six or seven years, and see what the people have done, as well in those parts of the Union, as in others, the conclusion must be that the people are well informed with respect to the constitution, or that they are in such a situation as that a publication of 40,000 copies of that instrument would be of no use to give them the information. But they certainly, said Mr. T. do understand, at least the practical part of the constitution, as they have several times exercised their rights as electors under it. It was in vain, therefore, for the gentleman to say his constituents are ignorant of the constitution ; since this alone shews that they are acquainted with the practical parts of it, which is all that is of immediate consequence for the people to know.

Look upon the subject, said Mr. T. in another point of view. For six or eight years past, a session of Congress has not passed, in which some law has not been enacted, which certain gentlemen have deemed unconstitutional. This they have publicly declared, and the declaration has gone forth to the people, and engaged the attention, and undergone the examination of clubs, of mobs, and of legislatures. Could this examination have taken place, said he, and yet the people be ignorant of the constitution ? Certainly not, and therefore the people in the western country either do know what the constitution is, or they have remained in a state of mental apathy, from which they could not be roused, though told that the constitution was invaded, and their liberties about to be destroyed. If they could not be roused by this stimulus, it follows of course, said Mr. T. that they are in a state of mental darkness, and that a pair of spectacles might as well be put upon the nose of a dead man, as that information should be sent among those people !

Another argument to shew the impropriety of the present resolution. There is no state in the Union that does not contain a printing press. He doubted not the state of Tennessee had its printer, and that he was not so fully employed, but that, if he thought there would be any considerable demand for the Constitution of the United States, he would find time to print it ; and the gentleman would not say that his constituents cannot afford to purchase it, since they can afford to buy slaves, and, of course, must possess considerable property. Upon the whole, the gentleman had himself convinced him, that there is no demand for the constitution in his State ; or that, if there be, those who want it, may readily be supplied ; he should therefore vote against the motion.

Mr. Harper felt no difficulty in confessing, that the more he reflected on this subject, in consequence of the motion which he himself made, and the variety of amendments which had been proposed to it, the more he doubted the propriety of the government of the United States making any of these extra publications. He was, however far from wishing to oppose a proper publication

of the constitution as amended, nor did he think the arguments which had been used against the measure were sufficiently strong to shew it to be unnecessary. Printers are not always inclined to run the risk of publications, though in the end, they might be well paid for their trouble ; and indeed, some people would be ready to accept a copy of the constitution, gratis, and read it, who would not themselves purchase it. He was not, however, in favor of the present motion. He was aware that there was a want of an authentic copy of the constitution as amended. The edition of the laws which had been mentioned, contained all the amendments, but one, which he believed it did not contain. It occurred to him that the publication of the laws authorized by the government does not extend to the laws which may be passed during the present Congress. Might it not, then, said he, be proper to give this business some form of this kind, viz. That the Secretary of State be authorized to publish a like number (5000) of the laws of the present Congress, and that the whole constitution be prefixed to the publication. This would increase a general circulation of an authentic copy of the constitution, which might be multiplied as printers saw proper. Mr. H. was not confident that this course would be the best : he barely suggested it ; and that the subject might be more fully considered, he moved to refer it to a select committee.

Mr. Nicholas hoped this course would not be taken, since he had heard no real objection to the original motion. Several had indeed been mentioned, one of them of a very extraordinary nature. It was, that the people knew every thing respecting the constitution, which it is proper for them to know : that they have nothing to do with this government but to elect the component parts of it. Mr. N. said, he was not in the habit of answering the arguments of the gentleman from whom this sentiment fell ; but so extraordinary a declaration ought not to pass unnoticed, come from whom it might. Principles of this kind, said he, are not likely to be at first generally avowed, they are generally ushered in indirectly, before their real supporters come forward, and avow them. He hoped so dishonorable a sentiment would always be scouted by the people of the United States.

But it was said, that this measure is unnecessary, because printers will always find it their interest to print what is much wanted ; so that the promulgation of a perfect copy of the constitution is to depend upon the enterprize of individuals, and if it is not thus circulated, the people are to remain in ignorance with respect to the basis of our laws and government. At present, he believed, no one could point to any volume containing our constitution complete. The whole amendments had been published, but having been ratified by degrees, the people do not know which are a part of the constitution and which are not. And he would also tell gentlemen

that they are mistaken with respect to individual industry. It is only in places where printers find it difficult to make a living, that every thing is laid hold of for publication which affords the shadow of success. In places where this difficulty does not exist, neither does this industry appear. He doubted whether even the gentleman from Massachusetts himself could point to a publication in his part of the country (where individual exertions were carried much further than in many other parts of the Union) containing a perfect copy of the constitution. He hoped this resolution would be agreed to, if for no other reason than on account of the arguments which had been urged against it, which certainly were calculated to pervert all the principles of our government.

Mr. Craik understood that the question now before the house, is not whether the Constitution shall be published, but whether the resolution shall be referred to a select committee. He did not think that the arguments of any gentleman ought to be given as a reason for passing a resolution, but the reasonableness of the motion itself. It ought also to be founded upon a general view of the subject, and not on any particular consideration. He should therefore prefer the motion of the gentleman from S. Carolina, as it would not appear to be pointed to the particular situation in which we stand with respect to certain laws lately passed. He did not think it necessary to publish the Constitution in a more general manner than the laws, many of which are penal, and of course immediately affect the lives and property of the people. As the proposition of the gentleman from S. Carolina connected the laws and Constitution together, he preferred that mode.

Mr. Macon wished, before the question was put, that the law authorizing the printing of 5000 copies of the laws might be read, as he believed it would be found that the Secretary of State is authorized to publish 5000 copies of the laws of every succeeding session, to be distributed throughout the Union.—[The law was read and this was found to be the fact.]

Mr. Thatcher replied to Mr. Nicholas, that the amendments of the Constitution had been published again and again in his part of the country; and he believed that they had also been published in that gentleman's district. With regard to the astonishment and surprize which he had expressed at the sentiments which he (Mr. T.) had delivered, it is natural when any thing is new, that it should excite these sentiments, but after gazing for some time, the astonishment will subside, and the spectators will act rationally upon it.

Mr. Macon said, after hearing the law, which he had called for, read, the proposed reference must appear unnecessary. This resolution, said he, embraces no new principle. It is the same as that upon which the extra publication of the laws was founded. It was thought the laws were not sufficiently known, and an extra publication of them was agreed upon. It was now supposed that

the Constitution as amended, is not sufficiently known, and a further publication of it is proposed. As to printers publishing it, if they had thought it worth their notice, it would have been done before this time; and not having been done, Congress ought to make the publication, since it is clear the amendments are not sufficiently known.

The instance mentioned the other day by a member from Maryland, of a gentleman who was capable of making an oration at a public meeting, not knowing any thing of the amendments to the Constitution, was a strong proof that they are not generally known. This did not happen on the other side the mountains, but in as thick a settled part of the country as any in the United States; and as it had been stated that 50,000 copies of the Constitution complete might be printed for less than a thousand dollars, there could be no reasonable objection to its being done. He thought this publication far more necessary than the extra publication of dispatches, ordered at the last session.

Mr. J. Williams said it appeared to him that it would be much better to have this subject referred as proposed, than that a question should be taken upon the resolution. By the law which had been read, it appeared that an extra edition of the laws of the present Congress would have to be printed, and the Constitution could be added to it. He should not have said a word on this subject, but from what had fallen from the gentleman from Tennessee. That gentleman said, "if we mean to support our Liberty, constitution and government, it is necessary to support this resolution." Mr. W. wished to know from that gentleman, whether the house agreed to this resolution or not, they could not support these? Such sentiments thrown out in debate, said he, serve only to create warmth, and answer no good purpose whatever. He wished all the acts of government to have the greatest publicity; but when called upon to print an extra number of copies of any thing to answer certain purposes, those purposes ought also to be considered. Had it not been for two acts of last session, he did not suppose the house would have heard of this motion, or of the arguments used in support of it. If the resolution was referred, this difficulty would be removed, and the question would be considered on a future day, with coolness and candor.

The question for reference of the resolution to a select committee, was put and carried, 38 to 33.

Mr. W. Claiborne wished this committee to be further instructed to enquire how far the law for the promulgation of the laws of the Union, has been carried into execution, and whether any, what further provisions are necessary on this subject. The laws passed last session, he said, had not yet been forwarded to the several states, though several of the legislatures were in session; nor did he believe the members of this house had got copies of them. He had not.

Mr. Goodrich wished the resolution to embrace another object. At present the laws of the United States are inserted by order of the Secretary, in five newspapers in the Union. This was insufficient. He supposed when this was ordered, it was expected that other papers would copy the laws without being paid for their insertion. But this has not been the case, and it is necessary the provision should be extended.

The Speaker said the resolution would comprehend this object.

Mr. Harper from the committee of ways and means, reported a bill for the enumeration of the inhabitants, which was committed for Friday.

Mr. D. Foster called up his report on the case of John Daniels, which was concurred in.

Adjourned.

Thursday, December 20.

Mr. Sewall moved that the house go into a committee of the whole, on the bill for establishing an uniform system of bankruptcy throughout the United States. The motion was carried, 38 to 25.

The house accordingly resolved itself into a committee of the whole on this bill, Mr. Dent in the chair, when the bill which is a very long one of 59 sections, having been read by the clerk, the chairman proceeding to read it by sections; when

Mr. Nicholas said, that this bill had been so long before Congress, that though it was included amongst other business of the session, no member had any certain expectation of being called to decide upon it. For his part, he must own he was not prepared to enter upon the subject. It was necessary to consult a great variety of authorities, and to examine English precedents, to a great extent, previous to coming to a determination on a subject of this magnitude. However, if the committee will rise, and gentlemen will consent to let the business lie till next week, he would not himself wish for any further delay. He moved, therefore, for the committee to rise.

Mr. Sewall said, he was not unwilling to yield to this motion, though he thought the reasons urged for it were not very strong. The bill having been so long under consideration, ought to be familiar to gentlemen whose business it had been to attend to it. He wished, however, that gentlemen might now assure themselves, that the time is arrived when a measure of this kind is called for, and he trusted a majority of Congress would be found in favor of passing this bill during the present session, and that it would not be suffered to pass over as heretofore.

Mr. Harper said, if going through the bill by sections would prevent the gentleman from Virginia, from recurring to the first, or any other section of the bill, he should think the request which he had made perfectly reasonable; but since making progress in the bill could not produce this effect, as it would not preclude the gentleman from making amendments in any part of it, he could

see no reason why the committee ought not to begin to consider the subject. From the number of sections which the bill contains, it might be expected that two or three days would be spent in discussing its various provisions, which would afford the gentleman from Virginia sufficient time to consult all the necessary authorities; for, having himself attended very particularly to the subject, he could inform that gentleman and the committee, that all the British authorities on the bankrupt system are to be found in a single small volume; and two acts only having been passed in England on the subject, he had no doubt the gentleman from Virginia is perfectly well acquainted with them, or if he should wish to refresh his memory, the time consumed in going through the bill will afford him a sufficient opportunity to do so. This bill, Mr. H. said had been constantly defeated by delays, and if they were given in to, he was afraid it would meet a similar fate this session. When the bill was first reported, an objection was made by one of its enemies to the printing of it; but when the bill came to be taken up, it was found it would be necessary to print it, which created a delay; and yesterday, when it ought to have been taken up, a sudden motion was made to adjourn. Now, a gentleman who has heretofore declared his hostility to the bill, moves for a postponement till Monday. If this is obtained, who said he, can say some other plea will not be made for a further postponement? In short, he foresaw in these repeated delays, the defeat of this measure; which if it was to be defeated, he wished it to be done by direct opposition, and not in this indirect way. Mr. H. hoped, from the consideration which he had suggested, that the bill would be proceeded with; and if after it shall have been gone through, any gentleman shall wish for further time to consider the subject, the request would be more reasonable than at present. Whilst the subject is under consideration, gentlemen's minds will be drawn to it; but if it be postponed till Monday, they will pass it over as a subject which is postponed till that day.

Mr. Hartley said, the house had frequently employed considerable time in the discussion of long intricate bills, which were afterwards rejected. This had been the case with respect to militia bills and some others. He wished, therefore, if there are a majority of members in this house opposed to this bill, that they would at once come forward, and move to strike out its first section, and by that means save a great deal of unnecessary trouble.—For his own part, he believed this bill to be well framed, and that if a bankrupt law is to be passed, a better could not be prepared.

Mr. S. Smith was of opinion it would be as well if the house were to begin to do some business. He believed the present situation of the people of America called for a law of this kind; and he thought gentlemen would become better acquainted with the subject, from hearing discussions upon it, than by a postponement. He wished therefore, that the committee might proceed to consider

the details of the bill.—He had himself read the bill, and was well pleased with its general provisions: But perhaps, when he heard the objections which might be brought against it, he might nevertheless be induced to vote against it. At any rate, he wished the subject to be entered upon; as he thought the adjournment of Congress from day to day, without doing any business would have a strange appearance to their constituents.

The question for a postponement was put and negatived, 37 to 33.

The bill was then proceeded with by sections. Seventeen sections were passed through without much objection or debate; but some difference of opinion appearing in the committee as to the propriety of some parts of the eighteenth section of the bill,

Mr. Eggleston said, as he found that even those gentlemen who had confessedly paid particular attention to this subject, are disagreed with respect to the propriety of certain provisions contained in this bill, he trusted it would not appear wonderful that a new member should wish for more time to consider the subject. He, therefore, moved for the committee to rise.

The motion was put and carried, and the committee rose accordingly.

Mr. Harper from the managers appointed to conduct the impeachment against Wm. Blount, reported, that the said Managers had, pursuant to a resolution of this house attended before the Senate, to request a further day might be assigned for proceeding with this business: and that Monday next, at twelve o'clock, was assigned. The report further stated, that the Managers having considered the subject, conceived that it would not be consistent with propriety or the solemnity which ought to be observed on this occasion, to proceed to the trial of the said William Blount, in his absence; and that having failed in his appearance, the Managers on the part of this house, ought, when they next appear before the Senate, to request that further order may be taken to compel the attendance of the said William Blount. The managers, therefore, submitted a resolution to the house for adoption, to the following effect:

RESOLVED, That the Managers appointed on the part of this house, for conducting the impeachment against William Blount, be instructed to request, at their next attendance before the Senate, that further order may be taken to compel the attendance of the said William Blount at the bar of the Senate.

Mr. Venable hoped that the gentleman who made this report, would suffer it to lie till to-morrow. He conceived that the question whether the Senate ought to proceed in the trial of William Blount, in his absence, is a question which ought to be settled by themselves, and not by the House of Representatives. However, as this was an entirely new subject, he hoped an immediate decision upon the report would not be desired.

On the question for taking up this report being put, it was negatived without a division.

The Speaker laid before the House a letter from the Treasurer of the United States, inclosing his specie account, and his account with the War Department, the one up to the end of June, and the other to the end of November, which was ordered to be printed.

Mr. S. Smith, from the committee of commerce, reported a bill to alter the stamp duty imposed upon foreign bills of exchange, and bills of lading, by an act laying duty on stamped vellum, parchment and paper, and further to amend the same, which was committed for to-morrow.—Adjourned.

Friday, December 21.

The following resolution, reported by the Managers of the Impeachment, being under consideration :

“ RESOLVED, That the Managers appointed on the part of this House, to conduct the impeachment against William Blount, late a Senator of the United States, be instructed to request, at their next attendance before the Senate, that further order be taken for compelling the personal appearance of the said William Blount, to answer to the articles of impeachment exhibited against him on the part of this House.”

Mr. Nicholas hoped this Resolution would not be agreed to. It was very different from his ideas on this subject. It was requiring a step to be taken which might altogether defeat the prosecution ; for, if a capias was issued, Mr. Blount might not be taken, and the agreeing to this report would affirm the principle that no further proceeding could be had, until he appeared in person ; and if he is taken, the Senate can do no more than they can now do. In his opinion, this kind of proceeding would be the reverse of dignified, by requiring a thing to be done as essential, which is perfectly immaterial, but which, if it fails, may put the whole business to hazard. The dignity of a proceeding of this kind depends upon its certainty. The Managers state, as their reason for this application, that all other impeachments and criminal prosecutions, require a personal appearance ; and in order to this, said Mr. N. they require a person to be in custody, in order to secure the due execution of the law ; but where it is not necessary to secure the person in order to carry into effect the judgment of a court, the appearance of the person is not essential. As it was unnecessary, therefore, to issue a capias, he would not do it, but immediately proceed to trial, if the Senate are ready to try the cause.

Mr. Sewall said, the Managers of the impeachment had submitted it as their opinion to the house, almost unanimously, that it would be proper to request of the Senate to take further order for compelling the attendance of William Blount, to answer to the charges brought against him, as in all cases of impeachment and

criminal proceedings, personal appearance is necessary, before a trial can take place. It may be argued, that, in some cases of impeachment, it would be expedient to dispense with a strict adherence to this rule, as it might, as the gentleman from Virginia has suggested, prevent judgment from being obtained against the party impeached; but then some substitute ought to be provided, and still the question recurs, that if it be an established principle of law, that no criminal shall be tried, except he be present in person, shall this principle be dispensed with at the will of a court? He believed not. He did not see how the Senate could proceed in this trial, as there is nothing in our laws to direct them; and they could not certainly go on to trial in defiance of the established rules of common law, or proceed to judgment without a trial. Is it not, then, said Mr. S. becoming the dignity of this house to make, at least, an application to the Senate, requesting they will take further order to compel the attendance of Mr. Blount? When this house first instituted this impeachment, they requested the Senate would take order for the personal appearance of Mr. Blount. They have summoned him to appear, and given him personal notice of the charges exhibited against him, but he has not appeared; and if in this case the house departs from the established rule of law, without substituting a rule in place of it, in some future case, the Senate may deem less than a personal notice sufficient in similar cases, which might prove extremely injurious to the party accused.

Let us not, said Mr. S. consider this question merely as it has reference to William Blount, but as relating to all future cases of this kind. It cannot be doubted the present Senate are disposed to do justice; but, at some future day, there may be a Senate which, availing itself of a bad precedent, may injure and oppress citizens who may be so unfortunate as to come within their power. We ought therefore, said he, by a statute which shall be known to the people, to declare what shall be the consequence of a neglect and contempt of the summons of a court in such a case. He must, he said, consider William Blount as guilty of a contempt of court, in failing to appear before the Senate; and if he is to suffer no inconvenience on this account, it cannot be expected that future summonses will be better obeyed; for if a person impeached shall be suffered to enjoy all the advantages by an appearance of counsel only, that he would have if he appeared in person, every impeached person will hereafter avoid the inconvenience and suffering of being personally present at his trial, and all cases of impeachment will be managed by attorneys, of course be much diminished in their consequences, and become a mere FARCE OR PLAY, to be acted before the public.

But he had said it was an established principle, that in all impeachments and criminal cases, the party accused ought to be present at his trial. He had not the books by him to prove this; but Blackstone, and all the other English authorities confirm this po-

tion. In England, indeed, they have a process of outlawry, which does not exist with us; but in no case do the courts proceed to trial, when the party does not appear.

It is objected however, by the gentleman from Virginia, that if the mode recommended be pursued, it will tend to defeat the prosecution. In laying this, he anticipates what may be the views of this house, and of the Senate. The Senate may refuse to grant the request proposed to be made to them. They may say the trial shall proceed. But the Senate may do something else; they may not issue a capias, but may pass a law saying what shall be the process in similar cases in future. Or if the Senate does not originate such a law, it may be originated in this house. He could wish a law passed declaring, that if a person impeached does not appear, when duly summoned, the facts stated against him shall be taken as true, and the court shall proceed to judgment, admitting counsel to argue only points of law. The consequences of a contempt of court being thus known, every innocent man will cheerfully attend a summons; but if a contrary course is pursued, the dread of impeachment will be greatly lessened, and they will grow into disrepute.

The gentleman from Virginia had endeavoured to do away the common law principle, by supposing the presence of the party as only necessary to insure an execution of judgment. Mr. S. presumed this was not the reason. He would mention some circumstances to shew that it was not. In common law, where a man is charged with a crime, he alone is conscious of the crime, and he ought, therefore, to be present. The court should at all times see him, that they may know that they are not trying a man who may not be in existence. In the case of a person standing mute upon his trial, he is called upon to answer; and if he refuses, he would ask whether any court could proceed to judgment or trial? They could not. Yet he is as liable to the penalties of the law, as if he pled; but because he does not plead, no trial can take place.

Mr. S. concluded by saying, he hoped the subject would be coolly considered—that he had no particular reference in what he had said to the present case, but he had an eye to all future similar cases.

Mr. Otis said, the respect which he entertained for the members of the committee of managers, led him to express an opinion different from theirs, with some degree of diffidence; but from the short view which he had taken of the subject, he believed the managers had propounded a question, which it is not proper for this house to decide; for said he, being prosecutors for public justice, it is our duty to present ourselves before the Senate, there to insist upon our prosecution. If our cause should be overruled, we must submit; but it is not for us to start difficulties.

Mr. O. said, he did not know what had been the rule observed in similar cases in England; he had not had leisure to examine; nor did he think we ought to be bound by British precedents in a

case of this kind. It is, said he, a new case, and I see no difficulty in determining to prosecute this man to conviction, and in obtaining for him the punishment which he deserves. There is some analogy between this process and a process well known in common law against a man's property, distinct from his person. Every one knows that such a prosecution is a prosecution of forfeiture. For instance, we libel a vessel, notice is given to all the parties to defend. If they do not appear, judgment and execution are obtained. The present process is against the office of William Blount; it has nothing to do with his person; he is afterwards liable to a prosecution at common law for any crime which he may have committed.

And is it for us to start difficulties on the threshold of the business, and in arguing thus, take the same side, perhaps, with the defendant's counsel, when they come before the Senate. Public opinion, said Mr. O. requires that this man should be removed from office, and rendered incapable of holding any place under the government in future; but if the course proposed by the Managers is taken, he may be elected into office again, before judgment can be obtained against him.

It had been said by his colleague that a law ought to be passed on the subject; but, if this was done, a question might arise whether it was not retrospective as to the present case, and he saw no necessity for providing for any future case. It is our duty, said he, to be ready to appear before the Senate, and insist upon a trial. If, indeed, on hearing counsel, the Senate shall determine they cannot proceed to judgment without the personal appearance of the accused, we must submit; but I see no propriety in our taking that side of the question.

Mr. Dana said, the Senate has doubtless a right to summon the party accused to attend before them. They have a right to issue process for the attendance of witnesses; and if the party chuse to appear, he has a right to require process for his witnesses, and they may be excused from all other service; but when the party accused does not chuse to appear, shall he be compelled to appear? For what purpose shall he be compelled to appear? Whether an offence is committed against the public, or a man is guilty of a civil injury, it is easy to decide what is the legal inference arising from the truth of the fact. It would be idle in courts of justice to proceed in trials where judgment cannot be effectual; and therefore, in criminal prosecutions, the security of the person is necessary and is always enforced. Let gentlemen who say that a person in a case like the present should be required to appear, answer if a sentence can neither affect a man's person nor his property, why he should appear in person? If a man were liable to be punished with imprisonment, fine, or ransom, his person ought to be secured; and it is because courts will have security, that in such cases persons are either imprisoned, or held by efficient bail; and when bail is refused, it is where it does not afford a sufficient security. Is any

such security required in this case, asked Mr. D. ? There is not.— The process would be a rare one, if the party were required to appear. It would be to say, that the moment the person accused and in custody, is found guilty, that moment he shall be at liberty ; but in all the previous stages of the prosecution, he shall be a close prisoner. If such a man wished, therefore for his liberty, he must wish to be found guilty as soon as possible. Is it possible, then, said Mr. D. that this could be a proper course to be pursued ? That it can be right to bring a man thus charged before the court, that he may be found guilty, in order that he may afterwards smile at the impotency of its vengeance ? The constitution, continued Mr. D. has proceeded on a different principle. The process in cases of Impeachment, in this country, is distinct from either civil or criminal ; it is a political process, having in view the preservation of the government of the Union. Impeachments, under the British governments, are wholly different from Impeachments carried on under this government. The constitution proceeds on the high authority of public opinion, of the high value of reputation to every man who is a candidate for public office, and that the declaration of public reprobation, expressed by the constitutional organ, is one of the severest punishments. It considers that the punishment of fine and imprisonment may be endured, but that public abhorrence is not to be borne.

The punishment in this case, therefore, is wholly a declaration of public opinion, not only that the person receiving it has proved himself unworthy of his present office ; but that there is such a baseness attached to his character, as to render him unfit for all offices in future. Taking the matter up in this view, the propriety of not considering the offence as criminal will clearly appear. Were the offences to be considered as a crime merely ; the judgment of the court should involve the whole punishment ; whereas it has no connection with punishment for crime, as, whether a person tried under an Impeachment be found guilty, or acquitted, he is still liable to a prosecution at common law. This process, therefore, is perfectly *sui generis*, equally unknown to the British Government, or in this country.

Upon this view of the subject, Mr. D. said, his opinion was, that the house ought to instruct the Managers, but in a way directly opposite to that proposed by the resolution under consideration.

Mr. Harper allowed it would be very difficult to answer the challenge thrown out by the gentleman from Connecticut, to produce an instance in which a man, tried for an offence, the punishment for which does not extend to his person or property, is required to appear in person, for before the present constitution, no such case existed ; and at present there is none such but what is contained in the constitution. But every punishment under the common law, affects either a man's person or property, as they are the only punishments to be had. Admitting, therefore, that no such case

can be found, neither in this country nor in that from which we have drawn the principles of our jurisprudence, where no punishment like the one contemplated in our constitution, was ever imagined, the argument has no weight. Mr. H. denied the principle upon which this personal appearance is required. It had been the practice from the earliest records of our jurisprudence to the present time, that a man shall never be tried in his absence for a criminal offence. Gentlemen say the reason of this is, that he may be ready to receive judgment. If so, it would be foolish, because the Court might direct the person of a criminal to be brought before them to receive sentence, as well as they could do it before his trial. What then, said he, is the reason? Ask the great sages of the English law, and they will give an answer very different from his learned friends. They will say that it is, because a man ought always to be face to face with his judges and accusers; that no witness ought to be heard against a man, or his life or property put in jeopardy, without his personal presence; and so sacred is the principle held, that a man is not permitted to depart from it.

This is not a solitary instance in which personal convenience is sacrificed to natural convenience; this is frequently the case, in order to make sure the barriers which protect individual security. It is in this respect that our jurisprudence is chiefly distinguished from the inquisitorial proceedings of former times, where a man might be found guilty of the highest crimes, without knowing who were his accusers, witnesses or judges. It is by this sacred maxim that no man can be put in jeopardy without being confronted by his accusers. And shall we, said, he, depart from this principle? Why shall we do this? Because the judgment to be awarded in this case does not extend to person or property? Is the judgment less than if it affected person or property? Gentlemen will not say so. They will say that a man's reputation is the dearest possession which he can enjoy; and certain he was, that gentlemen who are opposed in opinion to him on this subject, would sooner be deprived of their property or personal liberty, than lose their fame and reputation. It was, in his opinion, the highest punishment that could be inflicted upon a man of worth. An abandoned profligate, indeed, who holds reputation for nothing, who conceives he is free if he has the liberty of roaming at large, will not thus consider this punishment; but a virtuous citizen will consider it in the light in which he had placed it, as it places an indelible mark of infamy upon a man, which separates him from the rest of his fellow citizens, and places an insurmountable barrier betwixt him and all that is fair in character. Yet gentlemen say this is not a criminal proceeding! Yet surely, if the punishment is greater for this offence than it is for any other, the proceeding must be considered as criminal.

Mr. H. said, it might be very convenient for a man to stay away from the court which tries him. He could conceive instances in

which it would be convenient for a man to pay a fine which should be imposed upon him, rather than appear in court. But may it not be conceived that cases may arise in which it would be the greatest hardship to try a man in his absence? And yet, said Mr. H. if this barrier is once broken down, how shall we be able to say, "Thus far shall the departure go, and no farther?" We cannot, and the greatest abuses may arise from it.

In this instance, we are told the process was first left with the wife of Mr. Blount. Suppose the thing had ended here, could we have said the man had had actual notice? He would have had legal notice; but it could not have been said that he had received actual notice; but notwithstanding, the trial might have been proceeded with. In this instance, it is true, that the accused had personal notice, but the messenger might have returned, after he had left the process at his house, so that a man might be tried without knowing of his trial; and the step from this proceeding to that, would not be so great as this is from the established practice of our courts. It is an old adage, said Mr. H. *that first steps are most difficult*. If this is taken, the succeeding ones would readily follow which would render our proceedings in such cases the most inquisitorial and tyrannical. I hope, therefore, said Mr. H. the house will adhere to the landmarks of our ancestors, and not by this new-fangled doctrine, set up our own wavering, deceitful reasonings, in their stead, throwing down the strong barriers which have been set up around the safety of individuals, and the administration of strict justice. It is right continued he, to adhere to the maxims of experience, though we may not always see the reason upon which they are founded; as counsel argue in court against a precedent, on the ground that the reason of the thing has ceased to exist, the court invariably say "No; we do not know this, nor the consequence of departing from established precedents—we chuse to walk in the paths of experience, which we know to be safe, and not in new courses, which, for aught we know, may lead to destruction." If said he, we depart from the maxims of experience, we subject ourselves to the dominion of our passions—to *revenge* on one side, or to *favoritism* on the other, and our reasonings will lead us this way or that, according to our enmity or affection towards the party accused. It is true, on one day the decision may be in our favor, but it may be against us on the next; and though our favorite be screened to day, he may to-morrow, when the popular opinion, which is ever varying, shall have changed, be overwhelmed, by this departure from established principle.

Let us not, said Mr. H. be governed by these new maxims which have overspread, and created so much mischief in some parts of the world. It has been the same kind of disregard for experience, and contempt for old establishments, which has occasioned so much confusion and misery, which we wish to keep from our country. He hoped the minutest part of this mischief would not be suffered to enter in amongst us.

The gentleman from Virginia had spoken of the dignity of this proceeding, as if the report had thus spoken. It indeed, spoke of the solemnity of the proceeding, but said nothing about its dignity.

He should say nothing in reply to the gentleman from Connecticut, except that wit had little alliance with sense; it is pretty enough, and may serve to amuse us, but never serves to enlighten the subject on which it is used. If a man, who is liable to a penalty of ten pounds, cannot be tried, cannot plead, except in person, how much more is this necessary, in a case where all the people of the United States are prosecutors, where the Senate are the Judges, and when a Senator (a person of the third rank in our government) is the party accused? In such a case, the greatest possible solemnity ought to be observed. Ought the public to be suffered to see the foolish spectacle of the House of Representatives going up to the Senate, from day to day, to try a man who is laughing at them in the state of Tennessee, or the district of Maine? This sort of ridicule ought not to be thrown upon this trial. Does not every one know that one part of the solemnity of such a trial consists in the personal presence of the accused; try him in his absence and you take off three fourths of its solemnity from the mind of the public. And it was certainly the great design of this trial to produce a strong effect upon the public mind by making an example of the person accused, by a public trial and degradation; and he believed it would be rendered infinitely less so, if the personal appearance of Mr. Biount be dispensed with. He hoped, therefore, the house would reflect before they adopted an opinion which would go to the entire demolition of the most valuable of our privileges, the sacred barrier of our persons and property, against the encroachments of power, and the best means of preventing future malversations of office.

Mr. Otis said, the gentleman from South-Carolina had entertained the house with his usual flow of eloquence, but how much so ever to his own satisfaction, and that of his hearers, he might have touched on one point, he had left another, and perhaps a principal one without a remark. The question is, whether it is incumbent on those who are prosecutors to decide, or whether it must be left to the judges? Upon that subject we have not had the felicity of hearing the gentleman's observations. It certainly will be best to avoid this decision, and leave it to the constitutional judges. Are we to decide? our decision would have no effect! It will only tend to work up our passions by pretending to decide. Can we with experience trust our passions? Though I am perfectly persuaded that gentleman will not indulge his passions to preposterous, yet some gentlemen may. The gentleman's very observations, he said, would be used by the defendant's counsel when the trial came forward, and then he trusted he should hear his friend from Carolina use as much eloquence in answer to the counsel, as he now did to establish the very same opinions. And yet in both

instances he would think himself in the discharge of his duty, and really would be so.

But the gentleman says, that the fame and reputation of a person is of more intrinsic value to him than life or limb: he therefore argues that if upon trial in common law it is requisite for a personal appearance, with the same propriety it is so in the present case; his reasons were that process ought not to be had unless he appears. But how much soever he might value his honour, the law does not compare the reputation of a man to life or limb. In the same common law which the gentleman quoted, in a case where life and limb would be affected, judgment is given the same, if the individual does not appear upon his trial, as though he did; process is had in his absence. I mean in England, if a man does not appear at his trial, a process of outlawry is had; thus his fame, his reputation, his effects, and in former days, his life was forfeited, for whosoever met him might kill him, he being out of the protection of law: but the lenity of modern times has altered that severity touching life,

When a man is indicted, the object of the law is to receive sufficient security, agreeable to the magnitude of the crime, that judgment can be executed on him. Thus in a criminal case, the law has wisely determined that a man shall not be tried in his absence. Men of this description are generally possessed of but little property, and in order to guard against the hand of power, they must face their prosecutors: but the amount of the present judgment, on conviction, would be only removal from, and incapacity to fill any national office, and therefore there can be no impropriety in the proceeding.

The gentleman had said further, that much of the effect to be desired from this example would be taken from the minds of the people: now suppose this man should be elected by them to some office, which is probable, what effect would his absence then have on the minds of the community and upon the judges. There is less reason for personal appearance in this than in common indictments, and in the present case it might be attended with ill effects: we may presume that there might be some kind of influence—some party prejudice, which is not easily overcome. This, taking the gentleman's own argument, might possibly tend to effect the human passions, and produce an effect the contrary to what might be produced in his absence.

But however we take it, or whatever we may think, it is a question which ought to be decided by the judges. If the decision should be that his presence is necessary, and a capias is issued accordingly, it will be in his power to keep himself aloof from the storm: in a few years the house may be entirely changed, and the judges may have forgotten the circumstance, the man may come here, elected by the people, and resume his seat, and if then a new prosecution is issued, it must be carried on under manifest disadvantages.

'Tis undoubtedly right for us to enquire whether he has been duly notified, and then we have done our duty, and if he does not appear, let the court decide what ground shall next be taken, but let him not escape, owing to any ill timed indulgence or humanity : at the same time, we should not exceed the bounds of our duty.

Mr. Gordon—It seems to have been the principal idea of gentlemen, by their observations to direct what mode the Senate should pursue in the trial, and not what previous steps should be taken towards proceeding with the trial : It is to direct the managers, whether they should take further steps on the trial : It cannot be certain that, when we make the application, Senate will see proper to proceed agreeable to our request. The situation of the case stands thus : The people of the United States, by their constitutional organs accuse Mr. Blount of certain crimes ; they have requested that certain steps should be taken in order to bring him to answer ; the Senate have complied with the request, and have notified the person, of which they have informed this House, and that he has failed to make his appearance. What is the next step to be taken ? Is it not right that this House, as prosecutor, should come forward and take further steps to procure his appearance, in order that the man should appear and process be had ? When this process is followed, what is the next proceeding ? In an application to common law, if a person is duly summoned, and he does not appear to answer to the indictment, does the court proceed with the trial ? I presume not. I see a peculiar propriety in this House instructing their managers to go forward, as prosecutors, and that they appeal to the Senate to compel appearance on the part of the respondent : to go forward and direct that body in what manner to proceed : it is the duty of this house so to do by their resolution. This case is somewhat analogous to a criminal prosecution, and if it is so to be considered, then there can be no doubt on the step to be taken : in that case the personal appearance cannot be dispensed with. But it is denied that it is so, if so, consequently we must pursue a different course. But what is a criminal prosecution ? 'Tis a charge exhibited by the government against a person for violating the peace, welfare and dignity of the community : all laws are made for securing that peace, welfare and dignity to the community, and the offender is tried by them. Now is not this a charge of that nature ? The charge is for high crimes and misdemeanors, and the Senate as the judges are to judge on the degree of crime and punishment in the case. Here are every part which constitutes a criminal trial. The accused, the accusers and the court, and all competent. We therefore maintain this position : that it must be taken entirely in the view of a civil process.

It is said, that because the judgment does not act *IN PERSONAM* ; because it does not punish the man, it is not a criminal process : now, admitting the idea, that no other judgment should be render-

ed that should affect the estate of the person but a disqualification from office, would it not be a punishment to be removed from office, and disqualified from holding any? If there were no other punishment than that for any offence, according to that doctrine, there would be no criminal code in the United States. It is well known that a person holding office during good behaviour, has a freehold in it: 'tis a freehold estate. Should it then be said that a forfeiture of this is not a punishment? It certainly is.

Several objections have been made to the report, and most of them are resolved in this, that it involves inconveniences. It has been also said that if this mode is pursued, in the impeachment, its object would be entirely frustrated, and no judgment could be given on it. These objections, he thought were made without consideration. If the present law was insufficient to compel a personal appearance, it did not follow from that, that no law could be made adequate to the purpose. When the judiciary law was passed, it had not provided Marshals, &c. for executing it, there might have been the same argument used; but no man would argue, for instance, if a person was tried for his life, and convicted, and there had been no law to execute sentence, that the court had not power to order some person to carry that sentence into execution: the same would apply to the present case. The deficiency could be made up by a law, which would answer the end. It had been said that it was not necessary in civil law for a person to appear: but the case was different: the process in civil law was only against property and not against the person; but there was no analogy in the cases, as this did not affect the property, but the individual. It had been said that in criminal law, bail was not admitted, but in this case bail had been. 'Tis true bail is allowed in misdemeanors, but it is only for appearance, and the court cannot proceed to judgment without the person is present. The law considers that, in that case, bail is sufficient to oblige him to respond the judgment the court may eventually enter, but if the party is not there, they do not pronounce judgment; they resort to his bail to get satisfaction.

But the gentleman from Connecticut has told us that the Constitution of the United States proceeds from a very different principle than any law: that this respects disqualification from office, which is the highest punishment that can be inflicted, and yet he says an offence that shall merit the highest punishment that can be, is not criminal, but only civil. What strange doctrine is this! Criminal law, he says, is to rescue a community from the pernicious effects of a man's crimes. And is not this to rescue the United States from the pernicious effects of such crimes as are charged in the case. It has a great similarity with assault and battery, and yet it must not be termed criminal.

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justice as to do away the principle of the law. Such a doctrine as this would lead to this inference, and it may be as well said, in case of a man imprisoned under a charge of murder, this man may elude the law, it may be dangerous to wait for a trial, let us hang him at once. It will be most advisable to go on in the regular way, and if in the event, it should die away, we should avoid what is in my mind much worse, and be at least, right in the view of jurisprudence. Upon these ideas he thought there was sufficient ground for the present application, and particularly if the case can be considered in the view of criminal.

A message was here received from Senate, notifying the house, that they had taken into consideration the message received from the house on Monday, requesting a postponement of the impeachment, and that they had appointed next Monday 12 o'clock for that purpose: also, that they had prepared some rules to be observed in the trial which they communicated. (One of those rules was, that they would hear the defendant by counsel.)

Mr. Gordon proceeded. Sir, as the process now seems going on, I will suppose the case of a person appearing by his attorney. It is a principle regularly established by courts of law, that a confession regularly made by an attorney, in his absence should bind him to all intents and purposes, the same as though made by himself, and where answer is made, it does not include him in that suit, but in any other to which it may relate. Now let me suppose that there was an individual, arraigned before the bar of the Senate, for high treason; that this individual wished to appear by his attorney, and is heard by attorney (which I shall take for granted) the attorney comes in and confesses he is guilty of the crime: I ask whether that confession would not be taken as conclusive evidence? On the principle of common law it would be, if I know any thing of the operation of confession. If this is the consequence of confession by attorney, it must strike a person with abhorrence! That the life of a person should be trusted to an attorney! who shall say whether a person arraigned for so high a crime is guilty or not? Again suppose an attorney should undertake whether he is authorized or not, to appear and plead in the absence of a person indicted, (and such a thing is possible) he undertakes to personate him, and pleads for him, as he is entitled to do: may not such a one have an evil design in that case? it is possible. If, therefore, such a thing was to be done in the present case, can there be compensation for a judgment which would render this person infamous in the eyes of his fellow citizens, and remove him from office as well as disqualify him in future? There cannot possibly.

I might go on to point out a great variety of inconveniences more which might attend this neglect, but shall submit those I have mentioned. I do not conceive great inconveniences can arise from the measure, as a law can be made to secure its effects, and remedy evils which may otherwise be apprehended. That is, after

He is informed of its contents, he does not appear, it shall be taken for granted the facts are true, and judgment be had accordingly.

But the constitution of the United States speaks of a judgment which shall be rendered in case of conviction, and further advert's to common law, but it does not define what other judgment shall be rendered after the impeachment is closed. The Senate have their limits prescribed, beyond which they cannot go, although they may come short; they may only pass censure upon a person impeached, but the judgment may be removable. Upon the whole, he did not think it would be consistent with the dignity the legislature ought to observe in the trial of a citizen, if the personal appearance was dispensed with, and therefore he hoped the resolution would be concurred in.

Mr. Edmond said that upon reading the resolution, it appeared to him to import, that the prosecution could not proceed unless the Senate compelled the man to make his personal appearance. It is my opinion, he said, that the prosecution might go on whether he is brought in court or not. I do not pretend to say what has been the jurisprudence of Great Britain, because it appears to me that very little analogy can exist between a trial before the Senate, and an impeachment in England. In order to discover its powers, we ought to enquire how this court is constituted, and then what are the crimes or offences that may be brought before this court, and then what is the mode of procedure in this court, and see, for it is laid down in the constitution, a direction what is obligatory on us. The constitution says, That the Senate shall have the sole power to try all impeachments, and that they should be on oath before they be constituted into that court, &c. [Here he read the direction in the constitution.] The court is to be the Senate; they are to be on oath; the penalty is, removal from office; at the same time it takes care to point out that this court shall not extend to affect any criminal procedure that may be had against the party for the same offence; it has carefully drawn a line here. It goes on to point out the objects that can be brought before this court; the President, Vice-President, and civil officers; the crimes are for treason, bribery, and high crimes and misdemeanors. The mode of trial appears at the first blush to be different from all other courts, as no jury can here be allowed, but it shall have no relation to any criminal prosecution on the same subject. If as the gentleman from South Carolina declares, this amounts to a criminal case, what would be the consequence? It must be determined a criminal case or it must not: if so, it has attached to it all the rules relevant to a criminal court. If I agree with the gentleman, what will be the result? It will be that a second prosecution in common law is permitted by the constitution, in all other cases a man shall not be put in jeopardy twice for the same crime, but it appears clear that the offences to come before this court are different from of-

fences in common law, and the mode different: It takes away the privilege of a trial by jury, because it is a political crime, and his political privileges are taken away by disqualification, &c. And as in case of a trial for high treason, the privilege of a Jury is taken away, the constitution wisely ordains that two witnesses shall be necessary in such overt acts. In that case would depositions be admitted? Would not they compel the accused to look the accuser in the face?

But sir, a difficulty may occur, agreeable to the construction of the gentleman, which would not be easily surmounted: suppose the President, or Vice-President, or one of our Judges should be guilty of treason, and in such a case, no doubt he would fly: suppose he goes to another country; he is kill your President: if then you cannot proceed to try him in his absence, we are in the disagreeable situation of having our President in another country, and guilty of treason! and cannot be brought to trial! Is this fact, the want of power in our government shall screen the guilty from punishment? 'Tis true we ought to give every privilege the nature of the case will admit, to a person impeached, but not such as will defeat the law. Was this to be law, the case would be, that so long as he could keep himself from being taken, he could be safe; but from the impropriety and attendant difficulties of the motion, I hope it will not pass.

Mr. Sewall said the gentleman last up had endeavored to get rid of the difficulty by stating the nature of the court by which the impeachment was to be tried: that it arose from the constitution; that its powers were defined or rather limited. He appeared to conceive that this court is above all law and rule of proceeding that can arise in the community; that there is no law by which this court is to regulate its proceeding, and they having the sole power to try, have no rule, but their own opinion to say whether the party is before them or not. If they really are so exalted a body, I shall not be sorry if this impeachment fail, but I shall if any other ever does occur. For if the judgment of this court can go to the destruction of fame or character, it will be in a dangerous situation: this seems to be the bent of gentlemen's arguments; but on the other hand we contend, with submission, that this difficulty is carefully avoided, and this court as carefully established on the proceeding of common law, and that it ought to be guided in conformity to that rule as established in the United States. If they do not conform to the common law, it is an injury to the party accused, because I do not know any way by which their judgment can be set aside. It is for this reason that the managers wish for instruction from the house; if the house should think fit to agree with the motion, it will so far meet their wishes. I feel very anxious that the responsibility of proceeding should not rest upon the managers. It appears now that the Senate have instructed rules for the proceeding with this trial, which in my opinion are contra-

ry to common law. We find they have established it, according to the rule of their court, that not the person himself should answer but that the persons who come as his counsel should say whether he is, or is not guilty. Is there any court of law the same in this respect? What may be the conduct of his counsel we do not know.

My colleague (Mr. Otis) has been very anxious to prove that we have been trying before a wrong court; he says that we ought to wait the objections on his part of his counsel. That gentleman ought to know that the court is bound to say that it proceeds according to courts of law. What may be the consequence of dispensing with his presence? The council for William Blount, being men learned in the law may take advantage of every proceeding of this kind; they appear in court for William Blount; they conceive he is not guilty; but if contrary to their expectations, facts should be proved to fix his guilt, they then will come forward and say, our client is not here in person, he not being here in person, your honors say he is guilty, we move an arrest of judgment; we forbid any judgment being entered, as agreeable to our law he must be present. But the position may come forward, that he was not tried in the common way: was I one of that council I should declare that judgment and conviction so obtained was contrary to the common law, and therefore I should be for avoiding it by any action that I could; I should conduct myself exactly as I would in a case of common law.

I would observe again that this house ought not to consider themselves as prosecutors by the rule of law, or without the rule of law. We come forward for the whole community; why then should we attempt to obtain judgment in other way than we would if it was before any other law body instead of the Senate? If the Senate are to act contrary to every other court, then the gentlemen are right in their opinion, but they cannot.

The gentleman has supposed that impeachment and criminal law are subject to distinction because the constitution has provided that notwithstanding the impeachment, a trial at common law may be had; he therefore supposes that if this is criminal the other is unnecessary. I understand thus that this being a criminal proceeding, should not be a bar to other proceeding, because the powers of this court are limited. But the Senate ought to govern themselves by the rules and general principles of law entirely in this impeachment: they have not the power to change the law in this respect, nor to depart from the law. But if they see occasion, with the consent of this house and the President, a law might be made suitable to the case.

Mr. Otis was rising to speak, when the Speaker put him in mind of the rule of the house: leave being obtained for him to speak a third time, Mr. Otis only rose to move the previous question, which was seconded by five members agreeable to rule. He said there could be no necessity to decide on the main question at all.

and it would be as well to avoid it as it was not directly material.

Mr. Nicholas thought the main question ought to be taken, as it would be proper to direct the managers what they were to do, but the previous question would be an evasion of the motion, and leave the matter in uncertainty. It would be wrong in the house to throw the responsibility on the managers, because they refused their instruction.

Mr. Dana was of the same opinion. The managers wished to make the request before Senate: if they did make it, and the Senate proceed accordingly, it would certainly protract the business very considerably: If they did not make it, the proceeding could be carried on with dispatch. It would be therefore but fair in the house to give direction.

Mr. Otis to avoid discussion and delay withdrew his motion.

Mr. Dana, in order to shew that judgment might be rendered upon default in a case of impeachment, read a case which occurred in the reign of Richard III. of England A. D. 1388, where four persons were summoned to appear on a charge of high treason, before the king and lords: they failed to appear, a first, second and third summons being issued, agreeable to law. On their third meeting, the court passed judgment of death, and one of them being afterwards taken was executed, although an arrest of judgment was earnestly prayed for.

Mr. Gordon did not suppose that a procedure of that kind, which occurred in the 14th century, would be produced as a rule for proceeding in the 18th century: this, he said was the first instance of procedure, in any parliamentary proceeding that could be found. If the gentleman would look farther on, he would find that this instance was ill calculated to favor his opinion, as it never has been looked to for a precedent in any case. This was Mr. Reeve's opinion of it. But in this country, our constitution prevents a bill of attainder, which is there different, and therefore no such consequence could occur here.

The question was taken by Yeas and Nays, and were as follows.

Y E A S.

Messrs. Chapman, Evans, Goodrich, Gordon, Harper, Imlay, Matthews, Pinckney, Reed, Sewall, Thatcher—II.

N A Y S.

Messrs. Baer, Baldwin, Bard, Bartlett, Brace, Brooks, Brown, Bullock, Champlin, C. Claiborne, Clopton, Craik, Dana, Dawson, Dennis, Dent, Edmond, Eggleston, Elmendorff, Findley, A. Foster, D. Foster, Freeman, Gallatin, Glen, Gregg, Griswold, Hanna, Harrison, Hartley, Havens, Heister, Hindman, Holmes, Hofner, Jones, Lyman, Machir, Macon, M'Clenachan, Morris, New, Nicholas, Otis, I. Parker, J. Parker, Rutledge, Schureman, Shepard, Sinnickson, N. Smith, S. Smith, W. Smith, Spaight, Sprague, Sprigg, Stanford, Thomas, Thomson, Tillinghast, A. Trigg, J. Trigg, Van Alen, Van Cortlandt, Varnum, Venable, Wadsworth, Waln, Williams—69.

Mr. Sewall believed there was a large majority in the house willing to give some kind of instruction to the managers, and as the present proceeding would act as a precedent, he was unwilling it should go on without instruction, and therefore moved, That the managers appointed on the part of this House be instructed to proceed with the trial of William Blount, although he should not be present to answer the same.

The Speaker asked if this was meant as a resolution from the managers? Mr. Sewall said he conceived it might be taken so, although he had no authority. The Speaker said it could not: he therefore moved it from himself.

Mr. Venable saw no difference between this and the former resolution in some view, he therefore moved to amend by adding "provided the Senate should choose to proceed with the same."

Mr. Otis thought the resolution of December 18th, was quite sufficient to authorize the proceeding of the Managers; it sufficiently showed the opinion of the house, and they had hitherto acted on it; the present motion would be no new instruction.

Mr. Hartley hoped the motion would not prevail: the Senate had competent jurisdiction, and therefore it was necessary that at least the house should permit them to take their own course and not pretend to instruct them.

Mr. Gallatin called for the reading of the message of the Senate, which being done, he said, it only appeared from it that William Blount did not appear, if this resolution should pass, it would be to determine, that in every possible case at all events, the trial must be proceeded in. In his view he should think it proper to instruct the managers, but he was not prepared to say that they should proceed with the trial. It appeared he did not attend, and it is possible no counsel may appear for him, and if that should be the case, the trial would go on under great disadvantages. Mr. G. had no doubt, but the Senate would act with discretion, according as the circumstances may appear.

Mr. Sewall could not see how it was liable to the case gentlemen supposed. Such a resolution would be evidently shewing respect to William Blount. It was known that he did not personally appear, it was also known that the Senate had determined to suffer his trial to go on by counsel, we only ask this question of the House.—Shall we proceed, he not being present?

Mr. Craik hoped the house would not take any measures to increase the difficulties they were in. Gentlemen had said that the House had been informed by Senate, but it did not appear that he has had personal notice to attend: in consequence he has not attended. It was necessary that the managers should be left unfettered from any instructions by the house at all. In that case no precedent would be established. He was certain the resolution did not contain all the facts necessary in a resolution of this nature.

Mr. Pinckney said if the present resolution did not contain all

facts upon which a resolution of this nature ought to be grounded, he wished the gentleman to add such necessary facts, in order that the committee may be directed how to proceed: for, he said he was not of opinion that the House should give up its judgment to the managers: in this way we may give up the most valuable privileges enjoyed under the government, in an undue manner, if the Senate were inclined to abuse the power committed to them. He thought the managers were placed in a very disagreeable situation by the House, if they should refuse instruction to them how to act, for they would take upon themselves a responsibility which they ought not to have: they may be accused of giving up the rights of citizens though not guilty, and merely because the House choose to throw the responsibility on them. Who are those managers? Are they not members of this House? Are they not the organs of the House, acting for them? To refuse to them instruction appears the same as though an individual person should refuse to make use of his head to direct his tongue in what he should speak! 'Tis the duty of the managers to apply for direction, and as much the duty of this House to give it. 'Tis not kind for the House to withhold their sentiments, but they ought to come forward and say what shall be the conduct of their organs. He did not think the message from the Senate at all applicable, but if the resolution was any way deficient, he hoped it would be filled.

Mr. Otis moved to strike out of the resolution so as only to leave instructions for the managers to proceed in the impeachment. Then he said it would contain no more than had already been resolved; by this the managers might know that it was the will of the House for them to proceed unless some difficulty should occur which was not now known; in such a case they could inform the house.

Mr. Nicholas did not see any difficulty attending the proceeding: the house had information that William Blount had been sued, and that the return had been made to the office of the Senate. However if the managers did not think themselves authorized, he should have no objection to the instruction. As to getting rid of the business because the Senate were the judges, as had been suggested, he thought the house as much judges as the Senate of the mode proper to be adopted by that court; if this house does not like the mode they have proposed, it is our business to retract the prosecution.

Mr. Harper said he must draw a different inference from the gentleman last up respecting the right of the house, he said he considered the managers just in the situation of counsel, and the house as the clients who retain this counsel. The managers had declared their opinion, but they did not choose to proceed in it till they had asked the house; the house had done no more than to say they would give no directions: that is the inference the managers must draw. We are therefore left to go on with our own will; I see

no restraint in our doing what we think proper. But we wish to act as by the will of the house.

Mr. Pinckney said there was new information before the house which called for decision. They had been told before, that he did not appear, but this day they were informed that the Senate would proceed with the trial by his counsel.

Mr. Dana said some gentlemen appeared to suppose that the managers were a kind of executive officers; that they were to proceed without instruction: but it should be remembered that they are only a committee of the house of Representatives, appointed for the general convenience of the members. When it is recollected that a great proportion of those managers are of a different opinion from a majority of this house, is it to be expected that they will proceed by their own judgment, or that of the house? The house cannot, consistently with reason or common civility refuse them instruction for their conduct.

Mr. Gallatin saw no sort of impropriety in giving instruction to a given point. It may be recollected that in no part of the argument of gentlemen opposed to the resolution which was negatived, was it stated that it was not right for him to be here himself but that it was not necessary to *COMPEL* him to appear. What are the facts? That he had been summoned and has not appeared; I am ready to decide that the impeachment should go on provided he appear by counsel, but am not ready to say it shall, if neither he nor his counsel appear. It should be remembered this case is to be a precedent: cases could be multiplied in which it would be proper to proceed without a personal appearance, but it appears he will appear by counsel, which in the present case may suffice. Though there is nothing to shew the house that council will appear for him. If the resolution was worded so as to include this idea, he should not object to vote for it.

Mr. Harper produced a memorandum, which the managers had received from Senate, stating an order that Mr. Ingersoll and Mr. Dallas were admitted as council for the defendant. It also appeared to be plainly implied, he said in the message just now received from Senate, where directions were given how the counsel should proceed: which was strong presumptive proof that counsel would be heard.

On the question for the resolution as amended, there were Ayes 36, Noes 37.

Adjourned.

Monday, December 24.

The Speaker laid before the House a letter from the Secretary of the Treasury, inclosing a statement of the expences of government for the present year, and also of what revenue will be requisite for the ensuing year. Referred to the committee of ways and means.

On motion, the unfinished business, viz. the bill for providing an uniform system of bankruptcy, was postponed till Wednesday.

CONGRESSIONAL

On the motion of Mr. D. Foster, the report of the Committee of Claims on the petition of Jonathan Haskill, was referred to the committee of the whole for Thursday.

Mr. W. Claiborne said, that there was a subject before the House at the last session, which was not finished, and which he thought it expedient to bring again before the House. He alluded to the bill proposing a new regulation of the Military System. It was his opinion that the common defence of our country ought to rest on the militia, and he thought their present derangement a national misfortune, which ought to be removed as soon as possible. He therefore moved for the appointment of a committee to report whether any, and if any, what amendments are, in their opinion, necessary, in the act for establishing an uniform militia throughout the United States, and that they be authorised to report by bill or otherwise. Agreed.

Mr. Craik moved for the appointment of a committee to consider whether any and what alterations are necessary in the act respecting Post offices and Post-roads.

Mr. Thatcher thought it would be well to wait for the report of the Postmaster-General on this subject, which might be expected in a few days, as he had been directed at the last session to make a report early in the present session, and all petitions on this subject had been referred to him.

Mr. Craik thought the house had better appoint a committee, and when the report of the Postmaster-General came in, it might be referred to this committee. Agreed, and a committee of five appointed.

Mr. Baldwin said, as report was made during the last session on a representation and remonstrance of the legislature of the state of Georgia, which was not then acted upon, he moved to have it referred to a committee of the whole. Agreed.

Mr. Otis proposed, as the managers of the impeachment against William Blount, would have to attend their duty in the Senate at twelve o'clock, that the house adjourn, and that, to-morrow being Christmas day, they adjourn till Wednesday. Agreed, and the house adjourned.

SENATE, Dec. 24.

The Senate being formed into a Court for the trial of William Blount, and the managers on the part of the House of Representatives for conducting the impeachment, and Messrs. Ingersoll and Dallas, the defendant's counsel, having taken their seats,

The President having also declared the counsel ready to proceed with the trial,

Mr. Harper wished the gentlemen who appeared as counsel for Mr. Blount, would exhibit to the Court the authority under which they appeared.

Mr. Dallas said, himself and Mr. Ingersoll had been appointed by Mr. Blount as his counsel, by two different letters, that these letters contained other matter relative to the cause, which it might not be proper to expose; but they should have no scruple in confiding the letters to the President of the court, in order to satisfy the court, they were duly authorized.

Mr. Harper said, all that the managers wished, was that the court might be satisfied as to this point, that Mr. Blount might not have it in his power hereafter to avail himself of the plea, that he had not authorised counsel to plead for him.

The President put the question to the court, whether the court should be cleared, in order to ascertain this fact. The question being carried in the affirmative, the court was cleared.

In about an hour, the doors of the Senate were again opened, and the President declared the counsel duly appointed.

The counsel then put in their plea against the charges exhibited against Mr. Blount, which was as follows :

UNITED STATES, *vs.* WILLIAM BLOUNT,
Upon impeachment of the House of Representatives, of
HIGH CRIMES AND MISDEMEANORS.

In SENATE of the UNITED STATES.

December 24, 1798.

The aforesaid William Blount, saying and reserving to himself all exceptions to the imperfections and uncertainty of the articles of impeachment, by Jared Ingersoll, and Alexander James Dallas, his attorneys, comes and defends the force and injury, and says that he to the said impeachment preferred against him by the House of Representatives of the United States, ought not to be compelled to answer, because he says that the eighth article of certain amendments of the constitution of the United States, having been ratified by nine states after the same was in a constitutional manner proposed to the consideration of the several states in the union, is of equal obligation with the original constitution, and now forms a part thereof, and that by the same eighth article it is declared and provided, that—

"In all criminal prosecutions, the accused shall enjoy the right to a trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

That proceedings by impeachment are provided and permitted by the constitution of the United States only on charges of bribery, treason, and other high crimes and misdemeanors, alledged to have

been committed by the president, vice-president, and other civil officers of the United States, in the execution of their offices held under the United States, as appears by the fourth section of the second article, and by the seventh clause of the third section of the first article and other articles, and clauses contained in the constitution of the United States.

That although true it is, that he the said William Blount, was a senator of the United States, from the state of Tennessee, at the several periods in the said article of impeachment referred to; yet that he the said William is not now a senator, and is not, nor was at the several periods so as aforesaid referred to, an officer of the United States; nor is he the said William, in and by the said articles, charged with having committed any crime or misdemeanor, in the execution of any office held under the United States, or with any malconduct in office, or abuse of any public trust, in the execution thereof.

That the courts of common law, of a criminal jurisdiction of the states, wherein the offences in the said articles recited, are said to have been committed, as well as those of the United States, are competent to the cognizance, prosecution, and punishment of the said crimes and misdemeanors, if the same have been perpetrated as is suggested and charged by the said articles, which however he utterly denies. All which the said William is ready to verify and prays judgment whether this high court will have further cognizance of this suit, and of the said impeachment, and whether he the said William, to the said articles of impeachment, so as aforesaid preferred by the house of Representatives of the United States ought to be compelled to answer.

After the plea had been read,

Mr. Harper in behalf of the managers, asked for time to be allowed them for making their replication, and Thursday the 3d of January, was fixed for that purpose.

House of Representatives.

Wednesday, December 26.

The Speaker laid before the house a letter and report from the Secretary of the Navy, in pursuance of a resolution of this house of the 18th inst. containing a view of all the vessels of war employed in, and preparing for the service of the U. States, the names of commanders, where commanders have been appointed; the place where they were built or are building; their size and number of men and guns; and the sum necessary for the annual support of each. Also, the sums given for some of the vessels, the prices per ton at which others have been built, or are building, under the direction of public agents, without particular contracts; likewise estimates of the expence of building and equipping the vessels now building under public authority. The Secretary apologizes for

being able to state the costs of the equipment, all the accounts not having been received, and such as are received, not being at present properly arranged. Referred to the committee appointed on the subject of the Navy, and ordered to be printed.

Mr. J. Parker asked and obtained leave of absence for ten days for Mr. S. Smith.

Mr. Griswold said, he wished to lay a resolution upon the table relative to a subject, which, in his opinion, deserves consideration. Its object, said he, is to punish a crime which goes to the destruction of the executive power of the government. He meant that description of crime which arises from an interference of individual citizens in the negociations of our executive with foreign governments. As every gentlemen must be satisfied of the importance of this object, and the propriety of making some provision with respect to it, he trusted it would meet with no opposition. The resolution was in the following words :

"Resolved, That a committee be appointed to enquire into the expediency of amending the act entitled "An act in addition to the act for the punishment of certain crimes against the United States," so far as to extend the penalties of the said act, and other penalties, if need be, to all persons, citizens of the United States, who shall usurp the executive authority of this government, by commencing, or carrying on, any correspondence with the government of any foreign prince or state, relating to controversies or disputes which do, or shall exist between such prince or state, and the United States."

Ordered to lie on the table.

The house then resolved itself into a committee of the whole on the bill providing an uniform system of Bankruptcy throughout the United States, which, after making some small amendments, in several of the sections, with scarcely any debate, was wholly gone through by sections : after which,

Mr. Otis moved to strike out of the tenth section, which provides that, in case of a bona fide purchase, made from a bankrupt, for a valuable consideration, by any person having no knowledge, information or notice of any act of bankruptcy committed, such purchase shall not be invalidated or impeached, the following words, viz. "unless a major part, in value, of the creditors, at a meeting to be held upon due notice, shall agree to refund or return to such purchaser, the sum of money, or other consideration, which he shall make appear that he paid or gave, upon such purchase ; and in such case, upon the refunding or tendering such consideration, the assignees shall be entitled to the property sold as aforesaid, for the use of the creditors ;" and to insert in their place, the following amendments :—" Provided always that no purchase made bona fide, from such bankrupt, of any personal estate, for a valuable consideration, by any person having no knowledge, information, or notice of any act of bankruptcy committed or intended, shall

be invalidated or impeached after the purchaser shall have bona fide sold and alienated the same without such knowledge, information, or notice, nor unless the assignees shall, within — months after the allowance of the commission, agree to refund or return to the purchaser the sum of money, or other consideration which he shall make it appear that he paid, or gave for such purchase, and in such case, upon the refunding or tendering such consideration, or so much thereof as shall be equivalent to that part of such purchase as remained in the possession of such purchaser at the time of such knowledge, information, or notice, the assignees shall be entitled to the estate purchased as aforesaid from the said bankrupt, or to such remainder thereof, for the use of the creditors.

Provided also that in case the Assignee or Assignees of any Bankrupt, shall enter upon or claim any lands or tenements, or any interest in lands or tenements, which shall be bona fide purchased of such Bankrupt, for a valuable consideration by any person or persons, not being a-kin to such bankrupt or to his wife, after an act of bankruptcy committed without any notice, information, or knowledge of any act of bankruptcy committed or intended; it shall be lawful for the purchaser or for the person or persons, claiming such lands or tenements from, by, or under such bankrupt, to file a bill in equity against the assignee or assignees in the office of the Clerk of the Circuit Court for the District in which such lands or tenements lie, and upon his making it appear to the satisfaction of said Court that he has paid a valuable consideration for such lands or tenements, or erected or made any buildings or improvements thereon, prior to any notice, knowledge or information of any act of bankruptcy committed or intended, the said Court shall ascertain the amount of the sums thus bona fide paid by such purchaser or claimant, which shall be refunded by the assignee or assignees within such time as the Court shall order, or otherwise the title of such purchaser or claimant shall not afterwards be invalidated or impeached.

After submitting these amendments, Mr. O. moved for the committee to rise, in order to give time for them to be considered and printed. The motion was carried, and the house rose accordingly.

Mr. Waln presented a petition from a number of merchants and traders of Philadelphia, complaining that by the act prohibiting our intercourse with France, and her dependencies, they are prevented from taking measures to recover large debts which are due to them from those countries, and praying for such alterations to be made therein, as shall afford them relief.

Mr. Sewall moved that this petition be referred to the committee appointed to consider that part of the President's speech, which relates to the extending and invigorating measures for the safety and defence of the country.

Mr. Gallatin thought the committee of commerce would be a more proper reference.

Mr. Otis said, the committee appointed on the subject of defence, had already had this law under consideration, conceiving it to come within the province of their appointment. If it doth not, he wished the house would so determine. This law, he said, will certainly require amending during the present session. He had conceived it to be one of the best measures of defence adopted at the last session, and when extended and modified, he believed it would prove one of the best measures of defence which could be entered into at the present session.

The question for a reference to the committee of commerce (being a standing committee) had the preference: but this motion being negatived, 46 to 31, the other was put and carried.

A message was received from the Senate, informing the house that the High Court of Impeachment sat on Monday, on the trial of William Blount, and that his counsel had filed their plea, which was now communicated by the Secretary of the Senate to this House.

Mr. Bayard moved that this message be referred to the Managers for conducting the Impeachment against William Blount, with directions to proceed therein as they shall deem advisable.

Mr. Dent thought the instruction unnecessary; but Mr. Bayard still wishing the instruction to be given, the question was put and carried, there being 53 votes for it.

Mr. Baer presented a petition from a number of the inhabitants of the counties of Baltimore and Frederick, praying for a new post road. Referred to the committee on post-offices and post-roads.

On motion of Mr. Gallatin, the house went into a committee of the whole on the bill respecting balances due from certain states, which was agreed to without debate, and ordered to be engrossed for a third reading to-morrow.

On motion of Mr. Harper, the House resolved itself into a committee of the whole on the bill for taking an enumeration of the inhabitants of the United States, and after making a few amendments thereto, the committee rose, the house concurred in the amendments, and the bill was ordered to be engrossed for a third reading to-morrow.

Adjourned.

Thursday, December 27.

Mr. Otis said, there were some imperfections in the stamp act, which would require its re-commitment, which he moved. The committee of the whole were accordingly discharged, and the bill was re-committed.

An engrossed bill was read and passed for enumerating the inhabitants of the United States.

An engrossed bill for settling the debts of the several states to the United States, was passed. Ayes 55.

Mr. Thatcher made a farther report of unfinished business, which was ordered to be printed.

On the motion of Mr. Sewall the bankrupt bill was postponed till to-morrow, and the motion yesterday laid on the table by Mr. Griswold, was taken up.

Mr. Nicholas said, it was quite a novel subject of legislation : he was not apprised of the propriety of making such enquiry. If there was any ground for the motion at all, it certainly must appear that it was premature, for surely if there was any improper conduct transacted by any person, it must be proper that the House be informed what that conduct was, before they could legislate on it. We were told three weeks ago, that communication would be made to us in relation to the French government. The House had already been engaged in reference to that government : they had already given their opinion respecting it ; if this measure was adopted, it might prevent that communication coming in ; it was saying, we had no need of any communication on the subject. We ought to know what it is that has given rise to so new a species of legislation. He said he was surprised that cause for such a motion should have been apprehended by any gentleman : he did hope that there was nothing new in the state of this country that could direct the gentleman's attention to any particular person, and this opinion appeared to be maintained by the speech of the President, but if there was, it would be the subject of a future communication, and in such a state of things, it would be wrong to fix an improper hold on the minds of the people, before the subject should fairly become an object of legislation. As he had observed, he did not think from the tone of the President, that the state of affairs was mended : he was strengthened in that principle from the tone of many gentlemen last session : they then repeatedly expressed their opinions that we were brought to the last stage of the business, and that a declaration of war was not only proper but necessary : but it appeared that since that, the state of things was improved, and that there was really a possibility, arising out of the facts which had come to view, and what were in the President's knowledge, that an accommodation with France could take place. This being the general appearance of affairs, he contended that the house ought to wait a communication before they proceed to a measure like this.

Mr. Griswold said that the gentleman was mistaken, as to the object of the resolution : It did not respect any circumstance which might have been transacted. It appeared to him an object demanding general legislation, which the example of Europe pressed the necessity of. If any thing which the resolution aimed at, had been done, it could not be thought to aim at that, as it could not affect it : it only looked forward to what may be. If the agent of a faction should hereafter cross the Atlantic, by the desire, and to benefit the views of that faction, and such agent should treat with that foreign nation unauthorised by the executive ; such a man ought to be punished severely. Viewing it in that light, there appeared a propriety in bringing forward the resolution for enquiry.

to be made of the propriety of a law ; he was not perfectly sanguine in his expectations that such provision could be made, but he hoped it could ; he hoped there would be no occasion for the law, but there may be. The object was to make enquiry on its necessity and practicability. He did not think it could destroy the tranquility of the house, and he did not believe there was a member on the floor, who would pretend to say that an individual ought to conduct our foreign relations. The constitution has vested the President alone with that power, and the people or an individual may as well pretend to legislate for this house, or to usurp the judicial authority, pass sentence and execute it, and stamp it with authority, as to assume the executive authority in its relations with other countries. Those departments ought to be kept distinct from interference with each other, and much more so, to prevent individual usurpation.

Mr. Nicholas did not suppose the resolution could affect any past transactions, but he thought a greater knowledge of a certain transaction which was said to have passed, ought to be had, before a resolution, particularly relating to it, ought to be taken up. When the constitution put it out of the power of the legislature to declare what should be treason, it by the same rule prevented them to legislate on it.

If the gentleman meant this resolution to affect a circumstance like one which had recently occurred, Mr. Nicholas declared that, if he had had any share in that transaction, he should not at all be ashamed to acknowledge it : he should not be ashamed of any act which could preserve peace to his country : he should not be afraid himself to pass the Atlantic in order to obtain that peace ; nor be at all apprehensive of any dislike from the people for such an act : he had no doubt but it would be approved of as an acceptable service. Indeed upon that broad ground of interference, great benefits in a situation like ours, may be expected to arise. How, in such a situation, can we expect an accommodation with France, but by some intermediate assistance ? And who so likely to give that assistance with effect, as a person who is to share the enjoyment of that peace ? Where is the possibility of such conduct doing any harm ? If the object was to promote a war, it would be materially different, but the resolution does not make that difference, and it certainly must appear improper to class people of different descriptions, whose aims are different, under a general disapprobation and penalty. As there could be no necessity to justify the resolution, it must be improper.

Mr. Rutledge said this was a measure of defence, and demanded the attention of the House. He was surprised to hear an assertion like that from the gentleman from Virginia, that there was no evil in carrying on a negotiation with foreign nations. But though the gentleman thought such conduct to be perfectly harmless, he thought it must appear otherwise to those who seriously considered

it : and when individuals pretend to tamper and intermeddle with executive business, a legislative interference with such officious conduct must be called novel legislation ! Example after example had been seen, which produced dreadful misfortunes to governments, and may serve to guard us against an interference which may be dreaded. The Patriotic party, as it was called, in Holland, had their agents in France, which in their joint exertions, ended in the entire subversion of the government. We also know, that United Irishmen, who have carried murder, massacre and devastation before them, had agents in France by which their enormities were supported.

But, he said, he should forbear referring to facts which were not before the House, if the circumstance adverted to should be presented to the notice of the House, it must command serious attention. Would it not be wise in the House, seeing such serious events had occurred in other countries, to guard against such in this country, by making suitable regulations to prevent them ? It may be supposed that our citizens are too wise to submit to the fate of the examples we have of desolation in Europe : but it must occur, that though the government may be wise, there may be a number of people whose constitutional habits lead them to complain : every government is troubled with such people, and individuals, not having a knowledge of consequences, may be induced to opposition. The general government only are authorised to treat with foreign nations ; not even the state government can interfere : if some persons were to present themselves at the bar of the Council of Five Hundred, and say, we come from the patriotic government of Virginia, or of Kentucky, they must then suppose that the zeal of such persons carried them to a great length, and it would not be wondered at if that zeal was to increase to such a length, as to think that the improper measures of the American government may be checked by landing a French army : these things may happen, if encouragement is given, by permitting individual citizens to go to that country and carry on negotiations with impunity, supposing all the time there is no harm, as their views are only to promote peace, and that our government has no punishment for it : thus you would have the people going on contrary to the government, and transacting whatever they supposed the government remiss in.

He had seen nothing in the speech of the President which would induce the most sanguine members of the legislature to retract in the least the exertions put in force last session : he hoped and trusted the same exertion would be continued this session, and even be heightened, but he conceived it was owing to that energy, and determination to oppose aggression, that the security we enjoyed issued. It was necessary to let the citizens know to whom foreign intercourse was intrusted in our government. If the House were to take notice of the transaction alluded to, in a manner becoming the dignity of the nation, it would require more serious attention,

but it was not in the resolution, that had only a view to future occurrences of the same nature, which it was intended to correct.

Mr. Gallatin observed, it had been said by the mover of the resolution, that it had no reference to any thing which had heretofore taken place: it might be so, but admitting it, would the gentleman say that, had not such an event taken place, he should have made such a motion? He was persuaded he would not. As it would be proper to know precisely the state of the business to which this possibly referred, and as the President had promised a communication respecting our situation with France, it would be best to wait: it could not be long before it arrived, when possibly he might mention the measures which gave rise to the proposition under consideration, which was necessary, because if the House are to legislate on a subject so novel, it is necessary they should know precisely in what manner these acts were perpetrated, in order that they meet with the punishment they deserve. If the proposition is made on the ground of what has been done, it is not proper at present to pass it, till a proper explanation takes place of an event which can now only appear as a mutilated report.

But taking the subject on a general ground, it is exceedingly important; I will not deny, that viewing it in the light of some gentlemen, it merits attention. If a person interferes with the executive power, he is guilty of a crime which merits punishment by law; but still less we do not deny that if a man should embark to a foreign country and undertake to proceed in any measures for the government, without authority, he would be liable to punishment; but I will say, I think there is law that will punish such offenders. But it is not to be viewed on the ground which the gentleman has taken it. Can the measures referred to have a tendency, either directly or indirectly to check the measures of government, or militate against any negotiations which may be or have been pending with that country? No, they cannot. How it is gentlemen can call communicating, or carrying on a correspondence, an usurpation of the executive authority, I cannot tell. Gentlemen have told us that a man may as well usurp the legislative or judiciary. It may be so, but I will state a case in which an interference in that apparently may not be wrong. Suppose I have a law suit with another, and an indifferent person, who has no letter of attorney for authority, should write a letter to that person to endeavor at promoting an accommodation, how can it be said that person usurps judicial authority? That case bears a similarity with this. But in what manner is it possible to usurp executive authority? In what manner can an individual prevent any negotiation with the President?

Again, the resolution says we shall usurp authority, if we carry on any negotiation with a foreign power, &c. Suppose a merchant has his property taken by the French, and that merchant go to France, and by his negotiation with the government, he gets his

property restored, would that be wrong? Certainly not. But I will declare that if such merchant does it, he will do wrong by the rule of the resolution: but to go farther, I will suppose that this person is not the owner of the vessel, but only a volunteer, and he by making friends with the French government, obtains an embargo taken off, payment of money for captures, or restoration of property; would it be improper, and yet it would be against the principles of the resolution.

But he would further say, that if the resolution was intended to be effectual, it did not go far enough to complete its object: any citizen entering into correspondence with Great Britain respecting the renewal of that part of the treaty which was to expire in two years, would be as guilty by this resolution, as any one who should go to France in any accommodating manner under the same circumstances; both cases would be an usurpation of the executive authority: I do not think it extensive enough. But, permit me to say that the criminality of the act does not lie in the usurpation of the executive authority, but in the nature of that act. I say that a merchant who may correspond with Great Britain may be perfectly harmless, but the nature of the correspondence may be such as to make the person guilty of it liable to punishment.

In the general manner in which the present resolution is brought before the House, it is quite a novel subject of legislation introduced. I do believe that any individual, whether there is any dispute between the nations or not, is not material, who may enter into negotiation with a foreign power to invade the nation to which he belongs, would be criminal; no doubt can be entertained of that. I will instance Switzerland: it had no dispute with France, yet do believe that the individuals who invited France to invade it, were as criminal as those in Ireland which the gentleman from South Carolina (Mr. Rutledge) had mentioned. But that idea is not in the resolution: it ought to be made general, so as to apply to CRIMINAL correspondence. No nation ever passed laws of this nature:—to punish any person who should correspond with a foreign power. I will not disown, but do believe that correspondence, in some cases is criminal: I do believe that if any member of this House was to enter into any correspondence with that nation, it would be criminal, or however improper. We are not in a situation to make it treason, but it may be criminal.

But, sir, the nature of the correspondence must establish the crime. This our constitution has defined: a person going to an enemy of the United States, and giving them aid and comfort, is guilty of treason: but in the situation we are in at present with France, not being perfectly at war with her, it may be said it is treason—it may be proper to make a law that such who are found adhering to France, or giving them aid, should be found guilty—not of treason, because we cannot go beyond the constitution—but of a misdemeanor. If it is proper to legislate at all on this subject,

it is only to be confined to objects of this kind : but so far as relates to the individual interference hinted at, I am of the opinion of the gentleman from Virginia (Mr. Nicholas) that a man, without being sent by any person, or body of men, may, out of Love to his country ; out of a Love to peace, not inviting, or intending injury to his own country ; suppose such a man should prevail upon that government and put a stop to depredations on our commerce. I do not see any thing immoral or improper in such conduct. Whether such a man has existed, I will not say, but if such an one has, I am willing, not only to excuse him, but to say he has done right. But I will not say any thing on that circumstance, because it is not before the House, nor do I think that the circumstance existed more than by report, on which account it will be best to wait a communication. It will at last perhaps only appear that the man was disposed to be very important, but cannot by any means be supposed to usurp a power and authority which he cannot obtain.

Mr. Dana could by no means subscribe to the opinion of the gentleman just sat down, that this ought not to be expressed : he did not seem to understand the words used in the resolution, he objects to the word "usurpation." No other word can be used to express the object. The meaning of that expression is not that we should advert to every kind of correspondence, but only such as intermeddles with the executive authority. Whenever any individual undertakes to promote accommodation in such a manner, in which none but the President can do it, then, and then only may it be properly termed usurpation. This word is therein used with perfect propriety. It will be acknowledged that any correspondence held as an usurpation of the President's power, ought to be noticed, and the person punished.

The gentleman says that every correspondence ought to be judged of according to its nature : this is a position which no one will deny. But he says that such correspondence as is most likely to be criminal is not enough defined. In some cases, he acknowledges, when aid, and comfort is given, it may be necessary to punish, and that it may be proper to provide it as it relates to France. However these assertions are true : if we were to pass over such correspondence, and interference unnoticed, that nation would have a good foundation indeed to indulge the opinion that they had friends amongst us. We may draw a comparison. Suppose two hostile armies in the field, and the soldiers of one army should be induced to go to the others, and thus be seduced by them, when it was well known to them that their power laid more in the art of seduction than in the strength of their arms. How could such imprudence be forgiven ?

Again, — The gentleman supposes that there may be a case in which a person may be entitled to praise for such interference. 'Tis possible there might be a person of that character whose individual opinion may have great weight in the scale. General

Washington may be a man much respected and approved in Europe. But who can suppose that our great and popular characters will ever descend so low—none but an obscure individual would pretend to go forward without the consent, or knowledge of the government to promote an accommodation. But a person who has never rendered any service to his country: who has never been known: can any person so far rely on his own talent, without experience or character to mark him distinguished, can any person have the vanity, without a want of sense, to thus expose himself to ridicule? No man that has a mark of the American character, if he is possessed of that judgment which every person, almost, possesses, but must despise a man for the weakness of his intellect, or vanity, who should attempt to go forward in such a way, out of the ordinary course of action: he can only merit to be confined in a mad house.

There must be a presumption that he went forward as the agent of a faction. There can be no kind of question then, that such going forward is an actual hostility to the government of our country, which must tend to derange the system of our government. 'Tis the policy which our enemies use to promote their ends: and in this way, he is the only ostensible agent, waiting for the subversion of government. I do not say such a thing has existed; I have had no evidence that such a person has been guilty of the baseness which I ascribe to the person of whom report speaks. I do not think any person would assist a foreign power to come into our country. I conceive the gentleman's ideas are wrong, that we cannot legislate against the possibility of such a thing till we have a communication: he wished to go upon general principles, but it is unnecessary to have any particular information upon this sort of proceeding, as it was a principle which that information, be it ever so full, could not controul.

Mr. Pinckney said he should not have troubled the House, had it not been for the doctrine of the gentleman from Virginia, which he conceived extremely dangerous to a republican government; it tends to subvert all order and good government; it is that he said, he should not be ashamed to be concerned in any charge or negotiation—provided that it would tend to the peace of his country: and that the people would be satisfied, so that the peace was the result: taking that to be the opinion, I must say that I conceive it subversive of a republican government; which is that the sense of a majority, should govern: that the sense of that majority proclaimed by the proper organs should govern, and that no one should pretend to interfere with what is expressed by their legitimate organs. This is a principle which cannot be controverted. I believe that the gentleman's wish for peace, gets the better of his judgment in this respect. Peace to be sure, no one will deny, is a desirable object, if it can be had, and will promote the welfare of the nation, but that gentleman's wish for peace, might have induced

his better judgment to bring forward a principle which would be more dangerous than the most bitter war, in which we could possibly be engaged.

But what principle could have actuated the individual referred to, to put himself forward to give peace to his country? It must be, that he must imagine that his private sentiments ought to prevail over the legitimate government of his country. If it should in the opinions of the said individual, or any of the party that supports him, be defended as necessary, instead of peace to give war to the country, would not the same hold good to enable him to execute one as the other, and thus to involve in war instead of peace? The same principle will justify him to make war. A state of peace is not always the most proper for a nation; it may at times be judged more essential for the true interests of the country to engage in a war, under all its disadvantages, than to remain in peace: such has been and may occur again, and every reasonable attempt may fail to procure us peace. I know of no case in which it would be lawful or right for an individual to interfere with our relation to a foreign government—to negociate, when negociation is going forward by legitimate authority. It may have very many bad effects, and it must necessarily have some: it must show that there is a party in this country who take upon themselves to divide against their legitimate organs, it is setting up a power which would presume to be paramount to the legal authorities.

I do not think that the gentleman went upon the right idea when he says he should receive the thanks of his country for such attempts: he certainly calculates ill upon the sentiments of the people: he has founded them far too much on their pusillanimity—that they are afraid of war, and would have peace under whatever circumstances. I believe the people love peace, and would go as far as they can to obtain or preserve it, but when they have exhausted their all, and find that any further concession by past experience, has only brought on new grievances: they will rather, under these circumstances have war than peace: that it would be more for their future tranquility to hazard war, than obtain peace in an undue manner.

I do not think that the people would sit down under a peace that should not be obtained in a legal way, by their government: I do not think that any individual should attempt to wrest that power and attempt to open a negotiation with a foreign power.

The gentleman from Pennsylvania (Mr. Gallatin) seemed to agree to what he said would be an usurpation: stating that it would be wrong for any party or individual to usurp the executive power: I know of no parties but are composed of individuals, nor do I think that any individual would undertake such a business, without being engaged as the agent of a party. If such an one pretend to interfere, he ought to be punished with severity as the head of a party. That gentleman has also objected to the motion upon the principle

of its interfering with individuals having any negotiation about their private concerns, I can only add to the able observations of the gentleman from Connecticut (Mr. Dana) that this is only a resolution, and may be referred to a committee, so that if there is any fear of interference with the interests of merchants, it will probably be amended, or however there will be time enough for that when the bill comes into the house.

Mr. Harper. Not having been in my seat at the time the motion was called up, I have since been informed that the mover prefaced it by declaring that it had no view to any past transaction: I do suppose the declaration to be perfectly true, but I deem it proper to declare that I have such a view to what has already happened as to make it the foundation of my vote upon the question.

It is particular cases that have given rise to many of the great events which the world has seen: we are told in books of authority that it was the case of an obscure individual that brought about the Habeas Corpus act; and we could trace similar existing circumstances that have brought about many other great events. It is necessary that some event should shew itself: we are obliged to wait for the crime to appear, before we can strike it down—before we know where to aim the blow: we are obliged to rest upon some particular cases when we make a general law. It is true we cannot pass a law to punish what has been done, but when we see its mischief, we ought to prevent it in future. I have a view to a recent case that has happened; I knew of the circumstance at the time, and believe it did occur. I then viewed the transaction in the same light in which that nation and government viewed it. It is inconceivable to me to suppose that any government will be so ridiculous as to imagine, that an obscure individual in this country, not known twenty miles from Philadelphia, whose name was never before heard of, could receive such a man, and as surprising that he should imagine that he could change the system of a great nation, with whom we had been engaged for five years in fruitless negotiation; in that time no negotiation of our Ministers, nor operations of our force could bring to accomodation: A nation that not all the powers of Europe engaged in a six years' war, could bring to submission: that he should think to have weight to change the course of their policy. I have been told that this man went only of his own accord; that he took no authority or order, but the certificate that he was an American citizen, and a member of the Legislature of Pennsylvania. That any man should have the nonsense to suppose this, I am surprised: I do not believe one word of the story, nor will I believe it. I have heard of an instance of Fanaticism of a certain religious sect in this country who have gone to Germany in order to excite the Emperor to peace: and also of some of that sect going to a general at New-York to represent to him the evils of war; but that is ascribed to fanaticism. But I believe this circumstance has not only happened, but has been

DESIGNED, and that some in this country have been the organizers and supporters of it. And his mind was the more alarmed, at this event, as he considered it in connection with the general system of France, the political state of the world at this time, and the avowed plans of that country respecting this. The French government every body knew, had long since proclaimed, and had constantly followed up its proclamations by actions, that whenever it should find, in any country, a party disposed to subvert the established government, it would support that party.—The policy of this system was obvious; for that party, coming into power by the aid of France, and depending on her for the support of their authority, will generally be subservient to her views; and willing to place the affairs of the country under her control. With respect to this country, the French government had told us plainly, and in so many words, that such a party did exist among us; that they relied on this party, that we indeed might be good natured and credulous enough to believe the persons composing this party, when they denied having any connection with France, or acting under her influence, but that they had better proofs than the words of these persons, they had their actions; and that although this party could not direct the government, it could so embarrass and fetter it, as to disable it from moving hand or foot against France. Under these circumstances, while France entertains and acts upon this belief, an envoy goes thither from this country, and goes, as Mr. H. said it seemed evident to him from the reason which he had stated, with credentials from, and in the name of certain persons here who exercise the right of speaking the sentiments of the party, and acted in its behalf. What must be the language which the envoy, supposing him or those who sent him, to possess some small portion of common sense, must have employed to the French government, in order to attain those objects?

I know, said Mr. H. the gentleman from Virginia (Mr. Nicholas) has told us, that the object of this person in going to France, was to obtain peace for his country. And this object, the gentleman from Virginia says, is so laudable, that the person in question, instead of censure for this interference with the affairs of government, deserves, and no doubt will receive the applause of every sincere friend to his country, every sincere lover of peace. The gentleman affirms that every person has a right to take such a step, has a right to go, of his own authority, and attempt to make peace with a foreign nation, if he conceives himself to possess the means of accomplishing the object. It may, he admits, be a proof of great folly and presumption in an individual to believe himself possessed of those means; but if he really entertain the belief, he ought to exert them: and the gentleman from Virginia has declared, that could he believe himself able to succeed in such an enterprise, he would undertake it and glory in it. My colleague (Mr. Pinckney) has

shewn most undeniably, that this principle, once admitted, must go to the utter subversion of government; the principle being, that whenever an individual, or, by stranger reason, a number of individuals, conceive themselves wiser than the government, more able to discern, or more willing to pursue the true interests of the country; they may assume its functions, counteract its views, and interfere in its most important operations. Why may they interfere to make peace? because they judge peace desirable. But they may also judge war desirable; and upon precisely the same principle, they may in that case interfere to make war. When under pretence of making peace they have assumed a public character, and by themselves or their envoys, addressed themselves, directly and openly, to a foreign government, they may treat with that government about any other matters, and all other matters. Under this pretence, if this principle be once established, any discontented faction, under the name of a club, a patriotic society, a revolutionary society, a whig club, or any other name, may usurp the most essential functions of government in their own country, negotiate on all sorts of subjects with the governments of other countries, and open a direct and broad road for the entrance of that foreign influence, which, with equal truth and force, has been characterised as the "angel of destruction to republican governments."

Leaving this principle, therefore, continued Mr. H. where my colleague has placed it, exposed to view in all its nakedness and deformity, as visible as the pillar to which I point, I will proceed to remark on the connection between this mission, and the system and views of France towards this country; and I will repeat the question, what, under such circumstances, must have been the object of this mission, and what considerations must the Envoy, supposing him or his employers to possess common sense, have urged to the Directory in order to attain that object?

Could this mission, he would ask, have arisen from a conviction in its authors that the conduct of France towards this country was unjust and injurious, and ought, on that account, to be altered? No, for in that case the zeal which gave rise to the mission, would have been sooner awakened, and the mission itself would have taken place as soon as that conduct had been reduced to a regular system, and adhered to for a time. Was it the object of the mission to rescue the violated rights of this country from further outrage?—No, for it was notorious that the acts whereby this violation had been effected, so far from rousing the indignation of these persons, or giving rise to an embassy from them, had been excused, and even justified. What then was the object? The answer, Mr. H. said, was to be found in the time when the mission was sent. France has pursued, for a long time, a system of hostility and aggression towards this country. During this whole time, the zeal which gave rise to this mission, had slept. France had not only refused reparation for the past and forbearance in future, but had spurned at

our remonstrances, slapt the door in the faces of our ministers of peace, and finally demanded tribute as the price of an audience.— Still this zeal slept. At length the spirit of the country, roused by these repeated injuries and insults, comes in aid of the government; measures of preparation and resistance are adopted, and an universal indignation burst forth against France and her adherents. Then this sleeping zeal was awakened—by what? By the dread lest this public spirit and indignation should strengthen the hands of our government, arm the nation against France, and strip off all popularity and power from the individuals who were devoted to her interests, and expected to flourish under her patronage. How was this evil to be averted? By persuading France to tread back some of her offensive steps; to assume a line of conduct something less outrageous; to hold out some appearances of a conciliatory spirit; in short, to change her system of menace and blustering, for an insidious system, whereby our resentments might be disarmed, and our spirit of resistance lulled asleep. How was France to be thus persuaded? By a mission, which, going under the sanction and with the credentials of her partizans here, might obtain the confidence of her government. The mission, therefore was sent.

This, Mr. Harper said, he took to be a true history of this transaction, as to its motives and objects. What, he could now ask, must have been the arguments to the Directory, in order to insure its success?

Could any reliance have been placed by the authors of this mission on appeal to the justice of France? Certainly not; unless they were downright blockheads. And Mr. H. said that although he had never thought highly of the understanding of the person whom he supposed to have been the prime mover in this affair, yet he could not estimate it so very low as to imagine him capable of talking seriously about justice to a government which had told us plainly "that it cared not about the justice of our complaints or our claims; that we might indeed have just cause of complaint, but the question was not about justice or injustice, but whether we were prepared to submit on the conditions prescribed?" To a government holding openly this language, it would have been the last stage of folly to talk about justice, with any serious expectation of being listened to. The appeal therefore, must, he conceived, have been to the policy, the interests, of the Directory—And in what language would this appeal be made? By what topics would it be enforced? He imagined, by such as these, "You have, it is true, a party in America, and a strong one; but not so strong an one as you may imagine, and much of the force which it does possess depends on public opinion: and the adherence of persons not fully apprized of its views. Of this force you are about to strip it by the intemperate violence of your late conduct. You overshoot the mark, and rouse the public indignation against yourselves and your friends, whose popularity and influence you wholly destroy, thereby

breaking their strength, and thereby disabling them from rendering you any service in future. Therefore slacken your hand a little. Assume a language somewhat more complaisant, a behavior somewhat less offensive. Hold out some appearances of an amicable and conciliatory spirit. You need not repeal your decrees against our commerce, but abate a little, and for a time, from the rigor of their execution. Talk about calling in privateers; release a few seamen and a ship or two, now and then. This will assuage the resentment of the people, unnerve the arm of the government, and leave you at leisure to prepare your plans for execution at a more favorable moment. In the mean time, we, your friends, shall regain our influence, or at least, preserve what we have left, and may render you good service in future. After your war with England is at an end, we may, perhaps, shew you the way into America, as well as citizen Ochs and his friends shewed you the way into Switzerland, as soon as you got the emperor off your hands. On the contrary, should you push matters to extremities now, when the national spirit is roused and high, a war must be the consequence, and that will overwhelm you and us, as far as respects your influence in America, in one common ruin."

This, Mr. H. said, he supposed must have been, and he verily believed was, the language which the person employed in this mission was instructed to hold, and did hold, in secret, to the French government. His more ostensible communications, if he made any, as was said to be the case, might have been, and probably were, more cautious in their expressions, and more guarded in their sense; but it was on these considerations, and these alone, that in his opinion, any reliance was placed by the authors of the mission. These, he had no doubt, were the substantial parts of the negociation. The rest was mere talk and ceremony—the cover thrown over the real design. To have held other language, under such circumstances, would, in his apprehension, have betrayed a degree of incapacity, of ignorance, and of childish simplicity, of which he could not suspect the contriver of this mission, nor even the agent employed in it.

I am very sensible, Sir, continued Mr. H. that the gentleman from Virginia (Mr. Nicholas) may again tell me, as he did on a former occasion, that in reasoning thus I set up my own understanding as a measure for those of other men, and find every body guilty of ignorance or folly who differ from myself in opinion. But there are some propositions on which, such is their fulness of evidence, it is impossible for the mind to doubt, and in which we must suppose all men of common sense to agree; in the same manner as every man who has eye-sight must agree that the sun now shines; and should any one deny it, whatever respect we might have for his discernment on other occasions, we must suppose him to be blind upon this.

Mr. H. said he was ready to admit, with the gentleman from Pennsylvania, (Mr. Gallatin) that the embassy in question had pro-

duced no effect. Of this he was well assured, for he believed it to be a very weak project, not calculated to produce any effect whatever.

The small apparent changes, in a few trifling particulars, which are said to have taken place, he had no doubt were to be ascribed, not to the representations of this envoy, but to the vigorous measures of government, the firmness of the executive, and the spirit displayed by the country at large. It was not the effect of the mission, but its principles, its nature, and its tendency, at which he was alarmed. He wished to nip this most dangerous practice in the bud, to cut up by times, this plant of usurpation, which, if suffered to take root and flourish, must soon destroy the government by its poisonous shade. This was to be effected, not by punishing this individual, which he believed could not be done, for he knew of no law wherein the case was included, but by making a law to prevent such mischievous practices in future. And when we know, said he, that other countries have been ruined by this very engine of a factious intercourse between their turbulent citizens and the French government, when we know that this government openly avows its determination to encourage such intercourse, to protect all factious, all malecontents, all insurgents, in all countries; when we know, in fine, that this intercourse and her consequent protection of domestic factious, are the great engines of her foreign policy, and the weapons wherewith she has already prostrated so many wretched countries; when we know all this, shall we not oppose an effectual barrier against this terrible plague? Shall we not pass a law to prevent individuals from thus transferring to themselves, by their own authority, the powers of the government, which they may afterwards use for placing the country under foreign dominion? I hope, Mr. Speaker that we shall pass this necessary law, that we shall courageously meet this new and formidable danger. To do so, I know, will be contrary to the new code of the rights of man, according to which an handful of individuals, 20, 50, or an 100 may assemble, call themselves "the people," and assume, at once, all the powers of government. It will I know, be sinning against the new light. But in this new light I am not a believer. I still think that the majority of the people, by their representatives and agents legally appointed, ought to rule, and that all interference with their functions, or usurpations of their authority, by self-appointed individuals, or self-constituted bodies, are dangerous encroachments which ought to be restrained and punished. This, I am sensible, is an old-fashioned doctrine; but the experience had under the new system does not seem to me to speak much in its favor, and I therefore wish to adhere, closely and steadily to the old plan.

Although therefore, Mr. H. said, he was ready to acknowledge this embassy to have been in itself a very silly affair, yet he believed that if the practice was once permitted, and thus the principle es-

tablished, it would speedily be drawn into precedent, and must lead to the total subversion of the government. The effects of such a principle reduced to practice, had already, he said, made themselves sufficiently manifest in several nations of Europe, to the catalogue of which, presented by his colleague, the gentleman from Pennsylvania had with great propriety added Switzerland. And by whom were the inhabitants of that beautiful and happy country delivered up to pillage, slaughter and a foreign yoke? By whom but her own profligate sons, who stimulated by a boundless and unprincipled ambition, chose, rather than not rule, to rule over a country plundered and ruined, and to hold a precarious power as the miserable vicegerent of a foreign despotism. Are there no persons of this description, said Mr. H. among us! none who for the sake of authority, would consent to obtain it by foreign aid, and hold it by a foreign tenure? I hope in God there are none: but I know of no reason, why we should be happier in this respect than the Swiss. Surely we have no less reason to be discontented than they had.— But this spirit, a spirit of usurpation, of assumed power, and of revolt, out of which this particular case has grown, is not confined to this or that country, nor to this or that form of government. It exists more or less in all countries and under all governments, however just and mild; for in all countries are to be found restless, discontented, turbulent individuals, unsatisfied with the portion of power, which they possess, or can by regular means obtain, and therefore disposed, according to opportunities and circumstances, to use irregular means for the attainment of more. The spirit, thus universal, has committed dreadful ravages in all those countries where it has not been vigorously resisted, and closely restrained. It is therefore our wisdom to meet it in the threshold, and oppose to it a timely and a vigorous resistance, lest it destroy us also. “Obsta principiū” is a wise maxim in all circumstances of human affairs, especially in the affairs of government. When a cancer has shot deep its roots, it cannot be torn out, without destroying the vital parts. A timely use of the knife or caustic, might have destroyed it in the beginning without danger or inconvenience. This cancer in the body politic has but just made its appearance. Its roots are yet short and feeble. The proposed law is the caustic and the knife, which I hope to see applied with a firm and steady hand ere the evil spread and grow more inveterate, otherwise it certainly will spread, and destroy the body politic, perhaps in less time than any one now apprehends.

The house indeed had been told, Mr. H. said, that they ought to reject the proposed resolution, because of some defects in its form of expression, which, however, would be found in no degree to affect the principle whereon the resolution was founded. Objections of this kind are never proper except to a bill on its third reading, when, being no longer open to amendment, it must be rejected by those who cannot agree to its particular provisions, but such ob-

jections were wholly inadmissible, when urged against a resolution, which must pass through various subsequent stages, where all those small defects may be amended. In this first stage, nothing but the principle ought to be in question, and it was the principle alone for which he contended.

A little regard, he said, was due to what had been said respecting the intention with which an interference of this kind must be made. The gentleman from Pennsylvania (Mr. Gallatin) had said that the impropriety of acts like this must depend on the intentions with which they were done. But how were men's intentions to be judged of, but from their actions? Might they not sometimes think their projects beneficial, when they were, in fact, of a most mischievous tendency? And if the principle were once admitted, how would the intention of those who might practise on it, be ascertained? The principle, in fact was every thing; and this principle the gentleman from Pennsylvania had been too prudent to defend. He had, on the contrary endeavored to call away the attention of the house from the true principle, to some trifling details of the resolution. In this he acted wisely. But the gentleman from Virginia (Mr. Nicholas) less cautious, had spoken out with his usual candor, and asserted that the practice was proper, the principle justifiable, and that he himself should glory in having acted in the same manner. This, said Mr. H. is a candor which I admire; for I like the man who tells me plainly what he aims at, and what he means. The gentleman from Virginia has declared it honorable and proper in any individual, or set of individuals, who believe themselves more fit than the government for conducting the foreign relations of the country, to take the business into their hands, and adopt such measures as they may deem proper for obtaining peace; or, by necessary consequence, for accomplishing any other national object which they may think beneficial.

This principle, so utterly subversive of all regular government, has been so fully exposed by my colleague (Mr. Pinckney) that it is unnecessary to say any thing more on the subject. But I request the house to bear in mind, when they come to a decision on this subject, that this principle has been justified and even extolled, by one of the most respectable members on the floor. Little petty insurgents, the mere journeymen of sedition, who now and then peep out of their holes to search for mischief, and then shrink back to escape from punishment, excite more contempt than dread; but when principles utterly subversive of all law, order and government, are openly avowed and preached up by men of character, station and influence in the country, then it is that we ought to be alarmed, and to prepare for opposing their schemes with energy.

I am very sensible, Mr. Speaker, that all this will be treated, by some gentlemen, as mere empty declamation, the mere wanderings of an heated imagination. This has heretofore been the case with me, and it is thus I have always been treated, by some descriptions

of men, whose warning voices for neglecting to listen to which, some other countries are now plunged in irretrievable ruin ; to me these considerations appear to be the most important truths on our attention, to which the preservation of this government, and the safety of this country, in a great measure depend. It is from this quarter, from the introduction of foreign influence, through the medium of domestic faction, that the republican governments are especially menaced with destruction. Monarchies, despotisms, aristocracies, which, for the most part, depend upon the support of a few, may be subverted by foreign force, but popular governments unless quite contemptible in point of extent, cannot be subverted without the means of internal division. This division is effected by means of foreign influence, which mutually supports, and is supported by domestic faction ; therefore every thing that tends however remotely, to facilitate the alliance between those two deadly foes, is most carefully to be guarded against. What Buonaparte said to the Italians, after he had subdued and plundered them, by means of the divisions excited by himself, is a most important lesson for all republics : "While a nation (said he) is armed, united, and disposed to defend itself, it is always invincible." Let us well reflect upon this all important lesson, and oppose in the threshold, by adopting the resolution now on the table, the first beginning of this fatal alliance between foreign influence and domestic faction ; this prolific germ of intestine division, which if suffered to grow, will soon produce the bitterest fruits to this country.

Mr. N. Smith said, the gentlemen from Pennsylvania and Virginia, have taken ground perfectly characteristic of the two men ; whilst the gentleman from Virginia comes forward and boldly avows the right of an individual to interfere in our negotiations with a foreign government, the gentleman from Pennsylvania goes into detail, and pleads an abatement in the resolution ; says it goes too far in some respects, and not far enough in others ; that it will prevent correspondencies about private concerns, and so on. Why this sort of trifling, if it were not intended to lead the house off from the spirit of the resolution ? The gentleman from Pennsylvania knows too much of legislative business not to know, that this resolution, worded as it now is, cannot pass into a law ; that it is only intended as an instruction to a committee upon which to report a bill, which bill will have to undergo the scrutiny of that gentleman, and the house. He did not himself like all the provisions of this resolution ; he thought the interference instead of being general, would have been better confined to France ; but these are matters for after consideration. The only proper enquiry at present is, Is there reason for legislative interference or not ? Is there, or is there not danger to be apprehended from the interference of individuals in business of this sort. For himself, he had no hesitation in saying he believed there is danger to be apprehended from this source. He considered this as a measure of defence ; of efficient de-

fence pointed to the danger—danger with which we are threatened—danger from the diplomatic skill of a nation well versed in this skill. We have, said Mr. S. heretofore made provision for the raising of armies. These were for remote danger; but this a provision against danger, which immediately threatens us—a danger which has assailed us for many years past—a danger which has produced the most direful effects in this country. He himself never thought there was immediate danger to be apprehended from the arms of France, though, at some future period, there might be danger from this source, but their diplomatic skill ought to be constantly and strictly guarded again.

Mr. N. Smith said, if we reflect for a single moment upon the character and pursuits of the French nation, we shall see that their only system is to divide and conquer; to support their party in the country which they mean to subjugate, until the favorite opportunity shall present itself, to aid that party with actual force. Time has been, when it was more convenient for the French Republic (for she chuses to call herself by that name) to carry on a correspondence with her party in this country, than at present. All legal correspondence between the two countries has long since been cut off. There is now no minister here to favor the projects of France; there is, therefore no way of carrying on a communication with the party in this country, but by means of unauthorised agents. Are we not, then, to expect these? Certainly.—France has voluntarily cut off all legal communication between the two governments, and because ministers were sent there from this country, who would not place themselves at the head of a faction against their government, they rejected them. Knowing their character, what then could be expected from them? Doubtless that they would immediately open a negotiation with their party in this country. How was this to be done? not by doing a thing which would have been reprobated by every one. They knew their business too well to do this. They determined to put the proceeding on so plausible a footing as at least to take in some obscure individual, uninformed on political subjects, by making the first pretext a procurement of peace for the country; and after the correspondence was once formed, it might go on from one degree to another; for if such a correspondence can effect one thing, it can effect another; and he expected this intercourse to be continued until the time shall arrive for the French to make their purposed expedition into this country.

If we consider the situation of the two Nations, said Mr. S. may we not suppose there is danger to be apprehended from an improper interference of individuals? But, if we call to mind a recent instance, shall we be any longer in doubt that an interference of this kind has taken place? we cannot; and therefore we may expect that it will be done in future under one plausible pretext or

other. It was in this point of view only, that he alluded to the transaction which had recently happened, as the foundation of a law to prevent future abuses.

But it had been said by the gentleman from Virginia, that if the interference of an individual was for a good purpose, it rather called for our thanks than for our resentment, and the gentleman from Pennsylvania had said, that it depended upon the nature of the transaction, whether such a procedure was criminal, or not. Mr. S. said, he would on the contrary, lay it down as a maxim, that no foreign nation will ever enter into a correspondence with an individual, for the benefit of the Nation from which he comes; because, if they meant to do benefit to that Nation, they could do it through the legal organ. But if, instead of doing a benefit to the country, the French wish to aid a faction who are desirous of dividing the people from their government, they will certainly wish to treat with an individual. The supposition, therefore, that an individual may negotiate with a foreign government, for the benefit of this country, is wholly unfounded; and the very idea of such a correspondence is a proof of the vilest of all purposes; that of aiding a faction to overturn the government to which such an individual belongs.

But it was said, the interference of an individual could not be improper, because he could not usurp the Executive Authority. If the gentleman from Pennsylvania will give himself the trouble of reading the constitution, he will find that the carrying on of all foreign intercourse is placed in the hands of the Executive, as fully as the legislature is possessed of all legislative power, or the Judiciary, of judicial. When an individual, therefore, attempts to negotiate with a Foreign Government on national concerns, he is certainly doing the business of the Executive. And is not that a strange state of things said Mr. S. when an individual, or a set of individuals shall say to a government, "you are about to make war, but we will prevent it." Ought not such a conduct to be punished, and provided against by law? It certainly ought, and therefore he wished the present resolution to pass.

Mr. Gallatin observed, that the gentleman from South-Carolina, and the gentleman from Connecticut, had both found fault with the manner in which he had discussed this question; that he had objected to the detail of the resolution, instead of attending to its principle; and that the adopting of this resolution, would be only adopting a general principle which might hereafter be modified.—The gentleman from Connecticut had been pleased to say that he (Mr. G.) was old enough in legislation to know this. Mr. G. said he was old enough to know that when the principle of an original proposition was vague, the bill which was founded upon it was also vague, and nine times out of ten copied verbatim.

As an instance of this, Mr. G. mentioned the Sedition Bill, which was also introduced into the house as a *measure of defence*. The

same complaint was then made against the original proposition, which is now made against this ; and it was said then, as it is said now, that when the bill came in, the object would be more defined, yet the section of that bill which is thought to infringe the liberty of the press, is as liable to misconstruction as the present resolution. Gentlemen have admitted the validity of the objection which he had made to the want of precision in this resolution, yet they will not make it more precise. We are told, said he, that when an individual carries on a negociation with a foreign government, it is an usurpation of the Executive power, yet the word used is *correspond*, and not *negociate* ; and when they are told that what an unauthorised individual does cannot bind a nation, they are silent, but still say our arguments are vague. If, said Mr. G. as gentlemen assert, there is what they call a French party in this country, and it is the object of this resolution to prevent them from carrying on negotiations with the French republic for subverting the government, let them come forward openly on this ground, instead of producing a resolution perfectly vague and uncertain.

As to the arguments of both gentlemen he was at a loss how to set about answering them ; for when, without paying any regard to fact, gentlemen deal boldly in assertion, it is very difficult to make them a reply. He was not surprized, that the gentleman from South Carolina took the ground he did. The mover of this resolution declared, in making it, he had no reference to a recent event ; but the gentleman from South Carolina asserts that he did mean to refer to it ; and he may certainly do so, without running the risk of being contradicted, as the house is at present unacquainted with any facts relative to this business. So far, Mr. G. said, as he could credit the reports and letters, which he had seen printed in the newspapers, it appeared that the measures which had lately been taken by the French government, and which he had heard ascribed to the agency of a certain gentleman lately in France, had taken place before his arrival there. [Mr. Harper said, he did not speak of any effects produced by the agency to which he had referred ; he did not believe any had been produced. It was against the principle which he spoke.] Mr. G. believed the gentleman was rather at a loss on this subject ; for if much effect is ascribed to the interference of this individual, gentlemen get into the difficulty in which the gentleman from South Carolina seems to be, as it would then appear that peace might have been made by our Executive ; and if no effect was produced, then there is no ground of complaint.

The gentleman from South Carolina says it is incredible, that an individual, unknown twenty miles from Philadelphia, could effect a change in the measures of the French government, and that therefore he must have received credentials from other persons ; that he must have been the agent of a certain faction, and he goes on to say that the French depended upon the force of that faction, which na-

turally led him to the conversation which he supposed this Agent would use at Paris; such as, "Your conduct has been impolitic; you have alarmed the American Nation, and unless you meliorate your measures, your cause and our party will be involved in one common ruin."

As the gentleman from South Carolina meant these remarks to apply to him and others who happen to differ with that gentleman on certain political subjects; he hoped he should be permitted to appeal from the decision of that gentleman so far as related to the views and motives of the party to which he was supposed to belong. But he would certainly be justified in taking for granted the confession of that gentleman of the real object of his own party. It seemed then that in their own opinion, the only way by which the gentleman's party could overwhelm their opposers, was, thro' the medium of a war; and the object of this resolution was evidently to raise a clamor about foreign affairs, and to connect what the gentleman is pleased to call the French Party in this country with the French Government; and the gentleman from South Carolina deserves credit for having shewn, by his arguments, that this was the intention of this proposition.

It is true said Mr. G. that it would have been extremely difficult for a certain party (whom he certainly would not call a *faction*) to get a number of measures adopted, the tendency of which is to crush all the rest of the Nation who do not agree with them in opinion, except through the medium of a war. They know that even a war could not be sufficient, that the only way would be to establish an opinion that one half of the American people are in league with France, and ready to support her cause by force of arms. It was only by raising such a clamor in the country as this, that they could hope to get such measures as the Alien and Sedition laws approved by the people of the United States; or to believe that a standing army was necessary, not to repel an invasion, but, as is now confessed, for the crushing of a faction at home.

As to the assertion of gentlemen of the party to which he alluded, that the party in opposition to them had sent a certain gentleman to France, so long as they deal only in assertion, he supposed it unnecessary to notice it. He believed the fact not to be true. He believed the individual, said to have been sent, went of his own accord. So far as his knowledge went, he knew it to be a fact. He knew of no individual from whom he received instruction. If there are such, the gentleman from South Carolina ought to bring them to view, instead of making general assertions, which can have no object except to calumniate certain individuals.

In the course of his remarks, the gentleman from South Carolina, though he could not see how he connected his observation, mentioned certain modern doctrines, to which he is not a convert, viz. that twenty or one hundred persons may assemble, and exercise any authority they please, &c. Mr. G. wished to know by whom, or where, and at what time, this doctrine had been supported. That

persons have thought they had a right to petition, if they were only twenty in number, and to communicate with others for their co-operation, and to lay their petitions so framed before Congress, he knew, but he did not consider this as a modern doctrine. There appeared to him to be two modern doctrines in the world, and to one of the two the gentleman from South Carolina appeared to be a disciple. In one country we have seen the doctrine supported of taking a part of the community for the sovereign people, who have a right to dictate and govern. How far these principles are now supported in any part of the globe, he would not say. But he would insist that it never had been either advocated or supported in this country. The other to which he supposed the gentleman a disciple, is, that because liberty has been abused, or under the name of liberty, licentiousness and injustice have been practised in a part of Europe, the old maxims of liberty and republicanism, which laid the foundations of our constitutions and Governments, are to be laid aside, at least for a while. It is the doctrine of alarm; a doctrine which has been preached by gentlemen of great abilities in another country, and repeatedly re-echoed by the gentleman from South-Carolina on this floor.

In some things, however, the gentleman from South-Carolina is mistaken in fact. He says the modern system of Europe, is to transfer all power from the regular authority, to mobs and demagogues, and though he draws no conclusions as applicable to this country, they naturally are, that all those who are opposed to the extension of Executive authority here, are the mob, the demagogues, who are to derive power from its overthrow. This is not the fact. The present system seems to be, to concentrate all power in the Executive, and support that power by a military force. This appears to be the conduct of France, to whom the gentleman meant to allude. But how it can be supposed, said Mr. G. that we, who oppose on every occasion the undue enlargement of executive power; who are not afraid that every act of an individual disagreeable to the executive will overturn the government, should be advocates of this system, is extraordinary.

The gentleman also supposes that we ought not to hope to be more happy than Switzerland or Holland, and that therefore it is as likely that a party should exist here willing and desirous to overturn our Government, as that such a party should have existed in those countries. In order to have had his position correct, the gentleman ought to have shewn the similarity betwixt the situation of those countries and this. With respect to Holland, the gentleman must know that their old government was forced upon them by the armies of Prussia, so that every allusion to that country went to prove that both parties there, the Government and Republican parties, had called in foreign aid. Was that government forced upon them by conquest, and which a new conquest had overturned the Government of the choice of the people. He ought

also to have shewn that an inconsiderable part of the inhabitants of Switzerland were exclusively possessed of hereditary power, and consequently that those who were forever excluded from holding any office of honor or trust, would not be satisfied under the deprivation. It was not surprising therefore, that persons thus situated, should have sought foreign aid to overturn a system by which they were oppressed. The democratic cantons however, which enjoyed equal government, opposed invasion with all their force, and were conquered only by superior force.

Mr. G. said he had followed, perhaps not very properly, the gentleman from S. Carolina, through his various assertions. He should have been glad to have avoided any insinuations of party motives; but if motions are laid upon the table, to bring about again and again declamations such as have been heard, full of the grossest insinuations, all he could say was, that he would be ready to repel them. If it was the intention of gentlemen constantly to make it appear we are a divided people, he was not willing to stand mute as a mark to be shot at. He would attack them, in his turn, as to their motives and principles; he would carry war into their own territory, and oppose them on their own ground.

Adjourned.

Friday, December 28.

Mr. Otis reported a new bill for laying a stamp duty, including the amendments. Which was ordered to be printed, and committed to the whole house for Monday.

Mr. Griswold's resolution was again taken up, when Mr. Baldwin said, that the usages of the house certainly admitted of taking a question on a general principle, in several different stages; that it was very common for the mover to call for the opinion of the house when he first made his motion; that when a motion was made in the form in which the gentleman had thought proper to submit the one now under consideration, viz. "That a committee be appointed to enquire and report whether there be any propriety or necessity for such a law to be passed;" he thought it a stage not very favorable to the discussion of the general principle. He was not prepared to say, that a committee might not, on investigation, report facts and circumstances which might render further provisions in those laws necessary. He thought the motion very guarded; that it left the subject as open as possible, and expressed his wish that the committee might be suffered to be appointed. He said it had been repeatedly stated, and did not seem to be denied, that there might be cases in war, or in imminent danger of war, in which individuals would find it indispensable to the support of themselves and families, or perhaps to their lives, to hold such a correspondence with a foreign power. Persons might also be led as had been stated yesterday, by religious impressions; or by other benevolent and honorable motives, to take such measures to endeavour to

avert the horrors of an impending war, and to prevent the effusion of human blood. This has often been done, and been attended with wonderful success. He did not for a moment suppose it possible that a judicious committee of that house could be appointed who would wish to throw obstructions in the way, or render criminal such conduct. Instances of this kind, he said, were presented them in all history—they have been the subjects of most exalted and unbounded applause; monuments and altars have been erected to peacemakers. Even the histories of savage nations are not without such instances. Individuals, at the risk of every thing, of life itself, have gone out between contending tribes and armies, and been the instruments of restoring peace, and been rewarded with the highest testimonies of respect and veneration, from both parties.

In this country, and in this age, he was sure it could not be the intention of any gentleman to discourage or defeat such dispositions; he was willing, at present, to accept the assurances which they have given, and let the subject go to a committee to examine and report.

Mr. Otis observed, that when the present resolution was yesterday before the house, he intended to have offered a few remarks upon it, but gave way on a motion to adjourn; he would not now take up more of the time of the house than he should have then occupied, nor enlarge the observations which had then occurred to him, as the sentiments expressed by the gentleman from Georgia had not varied the question. He viewed the propriety of the resolution as resulting from the peculiar circumstances of the country. The insults and outrages of the French Republic had compelled the United States to assume an attitude which in other countries had been usually identified with war, and which in this country we ought to consider for any thing that yet appeared to the contrary, as a prelude to an open rupture. We have been obliged to arm by sea and land, to interdict commerce and to authorize reprisals, in short to do all but agree upon the formulary of a declaration. There could then be, he said, but one question before the house. Is it right and expedient in this state of approximation to war, to adopt every defensive and cautionary measure that would be incumbent upon us in an avowed and open state of war. If not, the strongest possible argument would be furnished in favor of making an immediate declaration of war; but if on the contrary prudence demanded and justified every precaution, which after such a declaration would be indispensable, we might still exhibit our moderation and forbearance in preserving our present relations. It had never yet been doubted that in the event of an open war, it was not only competent to every nation, but a sacred and necessary duty, not only to restrain its citizens from passing over to the enemy, but from maintaining any correspondence with him, especially upon subjects of a political nature, and he could scarcely conceive of any which would render such restrictions wise and politic in the

last resort, that did not apply to the present stage of advancement towards such a state—If party divisions exist in a country, it is no less important to conceal them, than when armed at all points we might have less to fear from their effects.

If distinguished citizens and men high in office under the plausible semblance of restoring peace might extend their intrigues to a dangerous latitude in one case; they might equally abuse an unrestrained intercourse in the other case under the no less specious appearance of a design to prevent war. The same encouragement to an enemy, the same plans of proceeding, and the same conspiracies, would be pregnant with the same and sometimes with more aggravated evils. Indeed so palpable are the abuses to which the tampering with an open enemy would be liable, that none but a lunatic would contend for the innocence of the practice, or for the possibility of permitting it consistently with the public safety. Yet the house had been told yesterday by the gentleman from Virginia, (Mr. Nicholas) and the idea had been enforced this morning by the gentleman from Georgia, that if a late eccentric mission had been instrumental in maintaining peace, far from being a subject of reproach, it would be cause for pride and exultation, for civic rewards and monumental honors. That is, in other words, the end will justify the means. Sir, said Mr. Otis, it is the misery of legislation in this as well as all other countries, that we cannot advance a Rep without entangling our feet in the toils of this fashionable philosophy, without encountering these old Jesuitical doctrines new vamped and varnished by modern illuminati. As if there was no standard of moral fitness in the nature of things. Gentlemen espouse and preach up these principles who are not aware of their extent. An ingenuous nature had led the gentleman from Virginia to extenuate the conduct of a person who had lately visited France; probably under an impression of the purity of his motives, or of the views of those who were privy to this singular adventure; but he could not believe that this conduct would meet with the approbation of the people of this country, from any persuasions that peace was the object of this diplomatic volunteer. Peace might be obtained by various modes, at which he believed that gentleman would revolt with horror. Assassinate your President, and transport a majority of both houses to Cayenne; let the people be terrified into the election of men of opposite principles, and probably these measures would give you peace, but it would be a peace delusive, precarious and fatal; let those who prefer peace to honor and French fraternity to independence form a subscription and pay to the Directory the fifty thousand pounds. Probably this act of patriotism would for a time procure the continuance of peace. But from such a peace he hoped the country would be preserved, it would be a peace destitute of comforts and blessings, a peace distinct from prosperity, a delusive calm, portentous and dreadful and such as the people of this country will ~~never~~ embrace.

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country, but also of European countries. The object of the bill, said Mr. B. is to prevent a certain mischief, but the gentleman lays Congress ought not to pass laws on particular occasions. If this principle had been adhered to, our code would have been very small. He had supposed that all laws were produced by particular occasions which shewed their necessity.

He believed no example could be adduced from the whole code of our common law, of a law which did not originate in some transaction calculated to destroy society. To be sure this is a new case; but the gentleman himself allows that this is a new era, in which new doctrines and new principles are advanced. But the alarm about these principles the gentleman, from Georgia says, has generally come from gentlemen who have lately taken their seats in this house, who are unacquainted with the grounds upon which the government had proceeded from its commencement. Mr. B. said, he supposed he should come within this class of members. He confessed he had not had the advantages of the experience of the gentleman from Georgia; but he should notwithstanding take the liberty of stating that the occasion which has called for this bill is a strong one, and that if Congress go upon the ground which some gentlemen have taken, that any individual has a right to interfere in the negotiations of the government, the principle is so broad as to be the parent of serious mischiefs to this country. If this principle were just it would go to the subversion of all government; for if an individual should be allowed to interfere in one department of the government, he may also be permitted to interfere in all. The principle goes the whole length, and this principle once allowed, we should find one class of individuals taking upon themselves the legislative power, another the executive, and a third the judiciary. Nay, he did not see why any number of people, who had formed an opinion from the debates which are published, that this house was at any time acting contrary to the welfare of the country, might not come forward in a body, or individuals, and state their objections to them on this floor. Such a principle it must be seen, therefore, would lead to nothing but disorganization and ruin.

The result of doctrines of this kind has promoted, upon the great theatre of Europe, scenes which have disgraced the world; and were they once acted upon here, it would be opening a door for the like scenes to be carried on here. But these principles had been so frequently and so ably brought to the view of this house, that it would be a waste of time for him to dilate upon them.—There could be no doubt that this would be the operation of such a doctrine.

This mischief, said Mr. B. is intended to be prevented by this bill, the conduct which had given rise to it, if the facts stated are true, might be punished at common law; but it is said we have no common law that will reach this case; that the federal courts have no common law, and that this ought to be a complete answer to gentlemen who say that this is no offence. He believed it to be not only an offence, but an offence of the high-

est kind, and ought to be provided against by a statute law of the government; not for the sake of punishing individuals, but in order to secure the government.

Gentlemen opposed to this bill have not all taken the same ground of opposition. Some have admitted the principles upon which it is founded to be good, but that it covers too much ground. What said Mr. B. is this bill? He thought it could not be read by an impartial individual who could doubt as to its object, or the mischief to be prevented. Here is a government, and there a variety of European governments. This law does not relate to any particular one. It proposes to punish any person who shall interfere in any controversy or dispute betwixt this government and any of those foreign governments. But gentlemen have stated a variety of individual cases as coming within the compass of this bill, which can by no means be so considered. Suppose said Mr. B. an individual has lost his vessel, and goes to a foreign government to recover it, what connection can this be supposed to have with any dispute between the two countries? Certainly none; the individual sufferer goes to seek redress for himself, or some person by whom he is employed, and has no connection with any dispute of a national kind.

But in the course of the remarks which have been made on this bill gentlemen have not confined themselves to the bill itself, but have gone into a consideration of the general policy of the government. The gentleman from Virginia yesterday (Mr. Nicholas) stated that a course of proceedings had been adopted by a majority in this house, the effect of which had produced a large army, a navy, and considerable taxation. He supposed this system wrong, as it led to war; but he believed it was a system which pleased certain gentlemen, and to support this idea (with how much propriety he would not say) he had introduced some lines from a poetical work, a production of the state from whence he came. The object of this was to shew that gentlemen opposed to him in opinion had been the aiders and abettors of government to produce a war. These are ideas of extensive operation, said Mr. B. and involve very serious charges against the measures of government. For his own part, he did not think that those gentlemen who are in the habit of supporting all the measures of government, ought to be denominated a party; those only who oppose such measures deserve that appellation—especially in all free governments. The gentleman from Georgia has, indeed, stated this government as in its infancy, as making experiment, and that no ill effects need be apprehended from them. He could not himself rest thus satisfied.

Much, Mr. B. observed, had been said in favor of peace, that it is all desirable, and that war involves every calamity. These are topics on which we may declaim, and about which a great deal may be said; but he did not believe the friends of government had been contending for war, as such. He believed, on the contrary, that their object had been for peace—That peace which could be

had upon a solid foundation. He was convinced that a peace of this kind has been and still is the object of this government, and that the measures which have been adopted, notwithstanding what has been said to the contrary, have been calculated to procure it.

What, exclaimed Mr. B. would have been the situation of this country, had opposite measures to those which have been adopted, been pursued, and we had now, agreeably to the wishes of the gentleman from Virginia, neither army nor navy? He left the reflection of every gentleman's own mind to make a reply. It would be readily allowed that the present situation of Europe had changed, in some degree, the state of things here. An invasion of our country may not be attempted at so early a period as was formerly expected. With respect to our navy, however, Mr. B. believed, if it had not been for it, the whole of our commerce would, before now, have been cut up by the roots, our vessels would have been taken out of our harbors, and our towns reduced to ashes. There was nothing at least, to have prevented this from being the case, and we know sufficient, said he, of the hostile disposition of the enemy, to lead us to believe that this would have been the case.

Happily for this country, continued Mr. B. the course desired by the gentleman from Virginia has not been pursued. We have been placed on a different ground. The measures which have been taken have been defensive, and calculated to cut off all communication with the nation from whom we have received so much injury; but all our measures, said he, will be in vain, if the door proposed to be closed by this bill is left open. Of what avail will it be that our commercial intercourse is cut off, if individuals are permitted to hold an intercourse of a far more dangerous kind? So far from this bill being unnecessary, therefore, it is absolutely essential to follow up our system of defence. Indeed, this is a part of our defence which is above all others necessary, as it will defend us against foreign intrigue, against what has already brought upon this country great calamities, and involved many others in irretrievable ruin. This crime, said Mr. B. is of all others of the deepest die; an individual may commit murder, and deserve punishment, but his crime may affect only a small number of persons; but the evil of an offence of this kind is, that it involves a whole nation, and puts at hazard every thing which we hold dear.

Mr. B. concluded by saying, that this was an extraordinary case, that few individuals would ever be found to embark in such a business; but as what occurred might again occur, he hoped a punishment would be provided for the offence.

Mr. Rutledge observed, that the gentleman from Georgia who this morning opened the debate, in charging the friends of the present bill with legislating upon the circumstances of the day, had been so candid as to allow *that* practice was not peculiar to this assembly; and would he add, that legislating upon circumstances as they arose, was coeval with the science of legislation? The gentle-

man from Georgia very well knows that it is the business of government to mark and correct abuses as they occur, and that if nothing had ever arisen to disturb the harmony of society, there would have been no occasion for codes of jurisprudence. If the tranquility of America had not been interrupted, and she had not been menaced with war, we should not have passed Sedition and Alien laws, and other laws which had been dictated by the circumstances of the times: they called imperiously for those laws, which would not have been projected in ordinary times, and they now require a law like that under consideration. The gentleman from Georgia had entertained the house with a long and learned dissertation upon parties, and declared the advocates of the bill could not seriously believe that any members of this house were capable of carrying their opposition to the government so far as to endanger the independency of this country; he treated all that had been said upon this subject as mere chimeras; as the offspring of lively imaginations, and asserted that we could not believe the opposition meant to bring ruin upon a country in whose welfare they are as much interested as we are by the circumstances of birth and wealth, and other equally weighty considerations.—To these observations he would give a short answer; it was, that the opposition in this country is so analogous to the opposition parties in other countries, that he could easily suppose they would act here as the oppositions had in Holland, Switzerland, Ireland, and other countries, where there had existed opposition parties, and where they had constituted a very considerable mean in subverting the liberties of their respective countries. Those parties every where began with reform, and every where ended with ruin; their zeal had far surpassed their wisdom, and had carried them lengths which originally they never contemplated going. This fact has been fully illustrated in an interesting publication, which had been dedicated to a distinguished member of this house, (Mr. Gallatin) and in which the writer, speaking of the misfortunes of his country, which from having been one of the most free in Europe, had become a department of France, says, "Stop where you are; recollect the fate of our common country, Geneva, and do not put at hazard the liberties of America: like you I opposed the administration of my country; my zeal to reform carried me all length in destroying, and I live a wandering exile to mourn over the ruins of a government which I aided to destroy, and which originally I meant to reform."

In the history of Geneva, gentlemen would see how the opposition there to the administration of the government had been led into the revolutionary road by the delusive lights which are held out from the new fangled philosophy of the times, and which a gentleman from Virginia yesterday acknowledged an acquiescence in, when he said, "we are contending for the rights of man." If gentlemen are not satisfied by referring to Geneva, he entreated them to look at Ireland, and contemplate how the opposition there (composed of

persons who had much to attach them to the preservation of good order) had been carried by their misdirected zeal, and spirit of party, from plans of very limited reforms to open war against their country. They had on all occasions declared, that their only object was a redress of the grievances of the catholics and dissenters; a parliamentary reform was originally all they talked of; they solemnly protested they would not in any event go beyond that measure: we find, however, that these persons after having associated for attempting these measures of reform (as they declared) took up arms against their country: we find that self denominated Patriots, who had been loud in their professions of loyalty, have lately been conducting French fleets and French armies to their native shores; we find them combined with a foreign force for the purpose of annihilating the government, which originally they only meant to reform.

Mr. R. said, the present bill appeared to him so unobjectionable, that he could not suppose it would have been opposed, if the ingenuity of the gentleman from Pennsylvania had not suggested an amendment which now formed the ground of opposition. The gentleman from Georgia had laid first hold of it, and said that legislating upon a particular case would produce inconvenience in all other cases, to shew this, he had said, that if the exceptions contended for, were not introduced into the bill, persons trading with the Indians might be liable to its penalties; he was much surprized by this objection coming from the gentleman from Georgia, for he very well knew by communications from the war-office, made to a committee of which he was a member, that Indian traders who had gone into the Indian country, under pretence of selling goods, had been in reality employed by a foreign nation for the purpose of alienating the affections of certain tribes from the United States.— He allowed this bill might interfere with persons going among the Indians, but it would be a salutary interference, and tend to preserve the peace and promote the welfare of our western citizens. A gentleman from Maryland (Gen. Smith) said he could not vote for the bill without the exceptions proposed; that without them no individual would be safe in attempting to recover his property which had been detained in France, and that if the French should be disposed to make overtures of peace, they could not, if the bill passed, be received by any American in France, not even by our Consul General. The gentleman from Maryland had been told by every professional gentleman who had spoken on this subject, that the cases he adverted to, would never be considered as coming within the meaning of this law—he also knew there were laws on the subject which would not be repealed by the bill, and which afford ample means of relief in all such cases as he had mentioned—he very well knew that the act would still be in force which provides for the prosecution of the claims of American citizens in the Admiralty courts of any of the belligerent powers. With respect

to our Consul at Paris, the gentleman from Maryland must know that he is no diplomatic character, and that he possesses no treaty powers whatever. Mr. R. said, he would be sorry if our Consul General did possess powers to negotiate with France, he certainly should not expect an advantageous negotiation from the gentleman who is our Consul at Paris. Mr. R. said, there is a point of view, from which if gentlemen would look at the exceptions, it would be impossible for them to approve them; they would see in them a cloak large enough to cover the most mischievous designs.—If all the malcontents in America were to assemble by their delegates in Congress, and believing the administration too wicked or too weak to desire an attainable and good peace, should determine to send an Envoy to Paris, what would be their instructions to him? they would charge him to ask for the restoration of our stolen property, for the release of our seamen, and every other thing which the exceptions of the gentleman from Pennsylvania would permit, they, in fact covering all the points now at issue between the two countries. Mr. R. declared, he believed the bill would be highly mischievous, if amended as proposed by the other side of the house, and shewed that in all well constituted governments it is a fundamental principle, that the government should possess exclusively the power of carrying on foreign negotiations.

Mr. Gallatin objected to this bill, because under the pretence of punishing certain offences which ought to be punished, it is expressed in so general a manner as to include a number of acts, which ought not to be punished; because it is drawn in the loosest manner possible; and wants that precision and correctness which ought always to characterize a penal law. The words "any citizen who shall directly or indirectly commence or carry on any verbal or written correspondence or interference or intercourse with any foreign government, or any officer or agent thereof, relating to any dispute or controversy between any foreign government and the U. States, with intent to influence the measures or conduct of the government having disputes or controversies with the United States; or shall counsel, advise, aid or assist, in any such correspondence," are so vague, incorrect, and dissimilar to our other penal laws, that he considered it his duty to vote against this bill, especially when amendments which have been proposed to remedy these defects, have been rejected, without attempting, if they were objectionable, to make them less so, and when the friends of the bill as reported, refuse to go again into a committee of the whole to see if it cannot be amended.

Before he went into the nature of the bill, he would say a few words on the principles in general. What are they? Are they founded on the ground that it is proper to punish an individual who shall assume that power to negotiate with a foreign government, power that is placed alone in the executive? It is worthy of remark, that neither the word assumption of power, nor the word negotia-

tion, appear in the bill now on the table. The crime there described, is not to enter into a negotiation with a foreign power, with an intent to usurp, or to assume, the powers vested in the executive authority. Gentlemen have made use of one set of expressions in the bill, and they use another kind when they come to advocate it. Can an individual, who derives no power from the executive, assume a power vested in the executive to act in the name of the nation, and to bind the nation? The idea is ridiculous and absurd in itself: the most so of any that ever entered into the head of man. Let an individual go and draw a sketch of a treaty; will that be an assumption of power? No; to assume a power they must carry it into effect. To draw a sketch of this kind, would be no more an assumption of power, than the drawing of a petition praying that certain measures may be adopted by the government, which might be said to be dictating to the government, as to what was proper to be done.

It has been said, that if individuals are not prohibited in the manner proposed by this bill, they will next take upon them the executive, legislative and judiciary powers—that men will lay their opinions before us, and by that means overset the government. Individuals, said Mr. G. are continually giving us their opinions, and previously assemble for the purpose of collecting and putting them in form. Have gentlemen forgotten that whilst the British treaty was under consideration, town meetings were held from one end of the United States to the other, and that crowds of petitions were presented to this house telling us we must acquiesce in the treaty. But no one ever thought that the doing of this was an assumption of power, but merely the expression of an opinion; and, in the same manner, it is in the power of an individual to sketch a treaty, and say it is such an one as he could wish to see adopted by this country and France. An individual would be justified in publishing this sketch of a treaty, and in sending it to France, through the medium of the press.

What, said Mr. G. is the act rendered criminal by this bill? It is the commission of an act which might either defeat or change the measures of our own government. This would be an usurpation of the executive authority; if an individual were to give an opinion to the executive on the proper way of acting in any particular case, some gentlemen might think (though he did not) that it would be an attempt to influence the executive authority; but the offence to be punished by this bill, is not for having influenced our own, but a foreign government.

Yet, Mr. G. allowed, that this bill does include offences which ought to be punished, because such a correspondence might be carried on with a foreign government as might be criminal; but he wished to have the crime defined. The words used in this bill are neither descriptive of an usurpation of the executive authority, nor descriptive of an act criminal in itself; because, said he, no mischief can arise from any person influencing a foreign government in our favor. Yet this is proposed to be punished by this bill.

But gentlemen say there is no danger, the courts will undoubtedly

take care not to punish—whom? Not those who act without bad intention, but whom they please. That is to say, observed Mr. G. we must pass a sort of general bill, giving merely authority to the courts without defining how it is to be applied, and leave them to punish, or not punish, as they judge proper; to explain and define the law as they please; or, in other words, our government is to become a government not of *law*, but of *men*!

But gentlemen say, no court will render such a decision as to involve a man applying for a restoration of his own property, or the property of any one by whom he may have been employed. What security, said Mr. G. have we for this? Is it not true, that a man thus applying for his own property, or that of another, must necessarily enter into the subject of dispute between the two countries? Has it not been declared, that the identical cases stated in the amendment which he had proposed, if taken in the aggregate, would constitute the whole matters of dispute betwixt France and this country? It had been so declared, though he believed gentlemen were mistaken, as, on enquiry, it will be found there are other objects of dispute betwixt the two governments. But taking the matter upon the ground on which gentlemen place it. In the memorial lately presented to the Council of Five Hundred by certain European merchants (to which he had already referred) the application is openly made with a view of changing the measures of the French Government. Yet the gentleman from S. Carolina has said, that the presenting of such a memorial by an American citizen would not be criminal. Mr. G. could not reconcile this bill with assertions of this kind. Will that gentleman tell me, said he, that a court shall so construe this law, without any exception being annexed to it, as to exclude cases of this sort? To tell me that all this is understood, is a doctrine which I cannot comprehend. I do not wish to leave this to the courts; I wish the law itself to define what are the specific cases upon which it is to act, that it may be clearly known what it may be criminal to do and what may be done innocently.

But the gentleman from South Carolina went farther. He stated that if he were in France, he would not hesitate to hold conversation with Mr. Talleyrand; that he should not scruple to tell him freely and plainly his opinion of the measures of France towards this country; nor should he be afraid of falling under the lash of this law, from having held such a conversation. What does this, said Mr. G. amount to, connected with what had been said about the existence of a dangerous combination of men—a French party in this country, and other expressions of the same import: Does it not mean that the law is to attach to a certain description of men, and not to others? According to the manner in which our courts are formed, our juries summoned, and other circumstances, the gentleman from South Carolina thinks he is safe, the courts will protect him. Yes, he may act as he pleases with impunity. If a man is a federalist, he will be innocent; but if he is an anti-federalist, he will be guilty. [Mr. Harper denied having said any such thing

and repeated what he had said.] Mr. G. observed, he did not charge the gentleman with making the inferences which he has himself made; but the facts which he had now repeated are the same as he had stated them to be, and he thought the conclusions which he (Mr. G.) had put upon them are perfectly natural.

But we are told, said Mr. G. that at all events, it is necessary to have a bill of this general nature; for if any exceptions whatever are made, a man might, under colour of these exceptions, carry on a criminal correspondence. This, said he, is the most extraordinary ground for legislation that could be advanced. To punish men, not for what they do, but because in doing something which is right, they may have done something wrong. Yet gentlemen allow that these cases are not to be inserted, because it is necessary to cut the evil up by the root. If this argument is good, it would be necessary to cut off all correspondence whatever, and yet they allow that some correspondence may still be carried on, notwithstanding this bill.

Again, nothing is said, as he before stated, respecting negotiation, or an usurpation of executive power; so that an individual might go to England, and reside there, might negotiate and form new connections, and might be encouraged and supported in his career by the government of that country, and in doing every thing that he could do to change the situation of the two governments. Mr. G. concluded, therefore, that this bill will not answer the end proposed; since it will not punish all the crimes which may come under what is called usurpations of the executive authority; but will in one quarter punish with unheard of severity, and in another leave matters as they are.

But the house is told that the particular situation of the country calls for the act. In the first place, said Mr. G. allowing the danger to exist; and alluding to the transaction which had lately taken place, allow that such a mission, as it is called by some, and a voluntary voyage by others, and suppose the French think they have a party here in their favor. From what cause, said Mr. G. do they believe this? He should suppose, because there is a party here, who are making perpetual declamations to this effect on this floor, and because most of the presses on the continent teem with similar insinuations. But it is not a little remarkable, continued Mr. G. that when a certain State Paper was read to the house yesterday by the gentleman from South Carolina, the crime appeared to be, that the writer had attempted to shew the French government that they have no party here.—Gentlemen think it perfectly innocent in themselves to invite further aggressions, nay an invasion, by assuring France that they have a party here ready to receive them, and they hold it up as a crime, that an individual should have spoken of the unanimity of the people, and their determination to rally round their government against the attacks of any foreign na-

tion whatever; and think the writer of such a paper ought to be punished.

Again, the house had been told in a general way, not perhaps perfectly connected with the subject, that after our government had failed in its endeavours to obtain an honorable accommodation with France, an individual goes, or is sent by a party, for the purpose of negotiating a peace with that government; and it is added, he must do this by making dishonorable stipulations. But allowing that such a negotiation was opened, and an individual were to agree to certain conditions, since he would have no power to bind the nation, his folly would recoil upon himself. But the danger to be apprehended, he supposed, was not from any disadvantageous stipulation being made. Gentlemen do not pretend to say that any thing of this kind had been spoken of by the gentleman lately from France. They seem to be afraid of a contrary conduct; they are alarmed because the truth is spoken with respect to the situation of the country. If the gentleman alluded to, or any other person, had told France that peace upon dishonorable terms was the object of a party here, such assurances could not have produced a change in the measures of that government; but rather strengthened them in continuing the same line of conduct which they had heretofore pursued. It is only by telling a foreign nation that no such party as they have supposed exists, that there is no set of men in this country who wish for a dishonorable peace, or a dishonorable treaty, that any effect could possibly be produced. Mr. G. did not know that any such effect had been produced, but he was sure it could only be effected by such means.

The gentleman from Delaware mentioned another effect that he conceived might be highly dangerous, which was that an individual might offer terms of peace to a foreign government which it might be willing to accept, which when they come to be published in this country, would appear so reasonable to the people, that the refusal of them on the part of our government might have the effect to destroy the popularity of the government. Mr. G. said, at least there was candor in a supposition of this kind. He believed this might give high offence to a government. But, upon what ground does this argument go? That the government does not wish to accept of such terms of accommodation as would be agreeable to the people at large. Mr. G. did not believe this. He did not think our government would reject terms of peace which would be popular throughout the Union. He believed the government and people entertain the same opinion on this point, viz. that whenever a peace can be made with safety, on just and honorable terms, it ought to be made. And therefore if any individual could, by any argument, or reasoning, create such a change in the measures of the government of France, as to prevail upon them to offer such terms of peace as would be acceptable, it could not be an offence, nor could it defeat the measures of our government, unless when their measures were inimical to a peace of any kind.

Again it had been said that a correspondence ought not to be permitted, because individuals might abuse and defame our government. This, Mr. G. said, was making this bill a second edition of the sedition act. He supposed that law had been bad enough, and that gentlemen would have been satisfied with punishing any person who shall write, publish, or utter any thing to defame our government. He thought this went far enough; but this bill, in that point of view, goes a step farther, as it affects speaking: for it forbids all verbal or written correspondence, and proposes to punish all persons who shall counsel, advise, aid, or assist—how? in any manner whatever. A few words dropped by chance would be sufficient to incur the penalty of this law.

Mr. G. said, he would not go into the details of what may be the object of this bill, not that he was afraid to do it. He had already stated that he believed it to be intended to create a clamor against certain persons in the United States, representing them as being willing to sacrifice the interests of this country to another, and as having entered into a criminal correspondence with France. No one can be at a loss as to the real object of the bill. If it had been to punish only correspondencies of a criminal kind, as the gentleman from Delaware had stated, a different kind of bill would have been proposed, and not a bill which might be interpreted to mean every thing or nothing.

But, Mr. G. said, he would discharge this part of the subject and come to the transactions which appear to have given rise to this bill. The gentleman from S. Carolina (Mr. Harper) yesterday favored us with the sight of a certain state paper, which from the style of it, appeared to have been delivered to the minister of foreign relations in France, by a gentleman who lately left his home and visited that country. The gentleman told the house, that he had been enabled to obtain this by pursuing some of those threads of a conspiracy which last year he told the house he possessed a knowledge of: and the use he meant to make of this paper was to shew the necessity of passing this law. The gentleman then stated, that the memorial presented by certain European merchants to the French council, would not have come within this law, at the same time that he declared that this memorial did come within it. And he would ask, whether, if our courts were to give the same coloring to every offence prosecuted under this act, that the gentleman from South Carolina had given to this paper, whether any conduct could be expected to avoid condemnation?

But, said Mr. G. as we have been told that it is from this paper that the public is to learn what the views of the antifederal, or opposition party are, let us examine what they are. He would not read the whole of this paper, as the gentleman himself had read it and it had this morning appeared in one of the papers of this city. In the first place, said Mr. G. it does not come in the shape of a negotiation: it speaks not of any stipulations or terms on which a peace might or ought to be made. It states only those steps which the writer conceives necessary, in order to the opening of a negoti-

ation with the government of this country.—What are those steps? That an embargo should be raised, and that a minister should be sent to this country with liberal instructions. These objects said Mr. G. could never form part of the terms of a treaty, but would be necessary consequence, or the necessary preliminary of any treaty. Before any treaty could be negotiated, negotiators must be appointed.—Whatever treaty might be concluded, vessels that were only embargoed, and seamen that were imprisoned, would necessarily be released as a consequence of that treaty. And therefore the steps proposed by the writer of this memorial might render a negotiation practicable, but could not even be the objects of negotiation, and yet these are the parts which the gentleman from S. Carolina has produced to shew that the writer of this paper ought to be punished, as interfering with the executive authority. Yet this paper is adduced to shew the necessity of passing this law; though the same gentleman acknowledges the memorial of the European merchants, before alluded to, was not criminal, though the object of it was to effect a change in several of the measures of that government with respect to neutral property. [Mr. G. read an extract from it, shewing that they asked for a modification of the decree respecting *role de équipage*, and for a repeal of the decree which renders vessels subject to capture for having British merchandize on board, which they state no nation ought to submit to.] Was not this, said Mr. G. an attempt to influence the measures of government? He submitted to the house whether it was not more calculated to do this, than what was called the memorial of the American Envoy.

It appeared to Mr. G. that the gentleman from S. Carolina had committed a mistake in bringing this paper before the house. It would be recollect that when this subject was first under debate, the gentleman had declaimed very handomely on the occasion, and in a manner, indeed very difficult to be answered. The reason was, that at that time he had produced no document in support of his assertions, but had made his own facts, and thence had drawn his conclusions. When that gentleman gave his assertions for facts, you could indeed deny his assertions, but then he might at least draw them in such a manner, that if granted, his conclusions must follow. But on this occasion he had been imprudent enough to read a paper instead of making assertions, and he had not acquitted himself quite so well as formerly. Every gentleman must have seen the embarrassment which he was in yesterday in his endeavors to give that coloring to the paper which he wished it to bear. On the former occasion, though he liked not the manner in which he had discussed the subject, Mr. G. gave him credit for the ingenuity of his harangue. No person could then call his statements in question, but now the matter is different, and he has produced a paper.

He thought the gentleman had made another small mistake. On a former occasion he declared it to be his opinion that it was time to act on this subject on account of the transactions which had lately taken place, and went on to give his reasons why he believed the gentleman alluded to was the envoy of a party. All this was very

well, so long as he produced no paper. But what has the gentleman now done? He has brought a paper, and that paper is said to have been delivered to the Minister of foreign relations, by an individual who has lately left his home to visit France.

When the gentleman from S. Carolina was about to read this paper, he was asked by whom it was signed? He answered he was prevented from saying by whom it was signed. Mr. G. said, he would be more candid than that gentleman had been; as he professed to have nothing to do with intrigues or conspirators, and had no secret threads by which to obtain information, he felt no reluctance in communicating to the house what had come to his knowledge this morning. A gentleman by the name of Dr. Logan, who he believed was the writer of a letter which appeared the other day in the papers, called at his lodgings, about half past ten o'clock, and said, that having heard of a memorial which had been read by Mr. Harper yesterday, as presented by him to the French Minister; he must declare that he was not the writer of that memorial, and that he had not presented it, nor any other to the French Minister; that he had however seen that paper—for it had been put into his hand by a Mr. Codman, from Massachusetts, (now residing in Paris) for the purpose of presenting it as from himself; but that he had declined doing it, and returned it in a few days after to Mr. Codman. In what manner this memorial came to this country, Mr. G. could not tell, or how the gentleman from S. Carolina got possession of it.—Though the gentleman did not say it was written by Dr. Logan, every one who heard him believed it was written and presented by him. He seemed to wish this particularly to be believed, and laid great stress on the word *we*, to shew that Dr. L. was acting in the name of a party. Mr. G. supposed when Mr. Codman wrote this paper, although it was with an intention of having it presented by Dr. Logan, yet he forgot that circumstance in a part of the paper, and could not help thinking of his own situation and that of others in France, so that the word *we* instead of meaning Dr. L's associates and constituents, turns out to mean the American merchants residing at Paris.

Mr. G. would not pretend to say that Dr. Logan had done nothing wrong in going to Europe, but he would say, that if he had written and presented that memorial, that he had done nothing criminal, though he did not like some parts of it. He had, however, stated that Dr. L. did neither draw nor present it. He hoped when the gentleman from S. Carolina produced any more of his *threads of conspiracy*, he would let the house have them more complete.

He would advert to a circumstance to shew that when the gentleman from Massachusetts (Mr. Otis) made his speech on this subject, he was in the *secret*; because evidently having an eye to this paper, he said “an ostensible correspondence may be so conducted,” &c. (see Mr. Otis's speech.) Mr. G. said he gave the gentleman credit for his sagacity; having no doubt read the memorial, and seen nothing criminal in it, he endeavored in this way to parry off the effect it might have upon the public mind when it came to be print-

ed. Whether he knew the writer of it, and that it was not presented, he could not pretend to say. But whilst gentlemen are very loud in their complaints against all open or secret intercourse or correspondence with the French, they have apparently themselves acted in rather a cautious manner. This paper must have come from some correspondent or other; from what source he did not know; he had no suspicions of gentlemen; they had no doubt come very honestly by this paper; but there at least seemed some mystery in the business which he could not understand.

It must appear, therefore, said Mr. G., that no circumstances have come to our knowledge in relation to the conduct of Dr. Logan, which ought to induce us to pass this bill; nor is there any fact known to us, which seems to call for it. Is it not one of those peculiar cases which call upon us to legislate. We, in fact, know nothing about it, all that had been said having been vague assertion, and when any thing like fact has for a moment seemed to appear, the next minute has shewn it to be a mere allusion. The clamor which gentlemen have thought proper to raise about this paper, when the public knows the fact, may recoil upon themselves.

But if gentlemen are determined to have a law of this kind, and they think that the amendment which has been proposed goes too far, why not suffer the house once more to go into a committee of the whole, with a view of making it less objectionable. The amendment which he proposed, went to all cases where individuals were seeking for their private property; but it was objected to because it was said it might cover other correspondencies of a criminal nature. This was not his intention, and he should be glad to have the objection obviated. This bill, extends to all citizens at present resident in foreign countries; and the moment the bill passes, they are liable to fall under its operation. It might be doubtful, he said, how far we have power to punish citizens in foreign countries in consistency with the laws of nations; but if citizens abroad are to be affected by the law, they ought first to be made acquainted with it.

Again, this bill, as he had before hinted, is not correctly drawn. The crime proposed to be punished will not in all cases be met, as the bill stands. If a man carries on this correspondence, who is not a citizen of the United States, he does not come within this law, so that all that would be necessary to escape punishment, would be to employ an agent who is not a citizen. Indeed, said Mr. G. the more gentlemen examine this law, the more they will be convinced that it is the most hasty and imperfect production ever submitted to this house; and he hoped therefore, the bill would either be recommitted or rejected altogether.

Mr. Edmond was aware that he should come under the description of those whose conduct received the censure of the gentleman from Georgia, as he was politically born but of yesterday; but having had the advantage of hearing a great variety of facts stated by him, he trusted he should profit by them. It is, said Mr. E. by discoursing with wise men, that we become able to reason on subjects; and under the light which he had received from that gentleman, he would

submit a few observations to the house, and those observations should relate to the subject, without wandering over the immense space which the gentleman from Georgia had thought it necessary to pass over.

The objections to this bill seemed principally to arise from a conviction in gentlemen that individuals have a right to interfere in disputes betwixt the government of the United States, and other governments, and that this right ought not to be abridged. The gentleman from Virginia, at the outset of this business, stated that if the object was to secure peace, every individual in the community has a right to interfere. He said, that if the government shall become corrupt, and involve the country in a war, it is not only just and laudable for an individual to interfere to prevent a war if possible, but to place the country in a situation that the government durst not declare war, and thereby secure peace.

Mr. E. conceived that the gentleman from Virginia had suffered himself to be led away by the terms generally made use of when speaking of peace or war, "That war is the greatest calamity that can befall a nation, and that peace is the greatest of all blessings."—Is this true? Is there not a kind of peace, (for the gentleman has declared he should not be willing to pay a tribute to France) which would not be the greatest of blessings? Suppose, for instance, we had only the alternative of war or tribute. No one would hesitate to take war in preference to tribute. If war was the greatest of calamities, then every nation, rather than go to war, must submit to every oppression which the lust of man can prescribe. The gentleman doubtless means to say, that war is a great evil, and ought to be avoided so long as we can avoid it with honor, and without sacrificing our Independence. Therefore, the peace which he could wish to secure to his country, would be an honorable peace.

But let us see, said Mr. E. what would be the operation of the principle laid down by the gentleman from Virginia. Who are to be the judges when a peace will be honorable, and when otherwise? The people are doubtless the judges. And how is their judgment to be obtained? Through the medium of their representatives, as their legislative organs, a majority of whom ought always to be considered as speaking the sense of a majority of the people. But if an individual may take upon himself to speak to a foreign government on the subject of any dispute, he may say that his government is corrupt; that it is going to involve the country in war contrary to the wishes of the people. Though such a person, together with his fellow-citizens, has delegated the power of negotiating to the executive, and sworn to support that power, yet he will undertake to counteract the measures of government, because he conceives it to be corrupt, or that it is guided by a faction. Therefore, from the purest love of peace, he goes to procure it. He will state the situation of his country, and perhaps declare that it durst not declare war. What can such a government be called? The private individual is undoubtedly the tyrant; and the justifier of such a man, would justify any tyrant in the world.

But the gentleman from Georgia says it was the duty of the committee who reported this bill, to enquire whether any fact of a criminal nature existed, which made it necessary to pass a law of this kind. He also tells the house that he, as one of the committee, made the enquiry, and could learn no such fact. He also says, that if any such fact had existed, that this is not the time in the moment of heat and passion, to make a law on the subject. So that in either case, according to him, a law ought not to pass.

Another gentleman, has made a great many observations on the present occasion. That gentleman Mr. E. said, had an uniform mode of reasoning. It is this, being commonly found in opposition to every measure, and especially to those of a defensive kind, he objects in the first place, that a proposed measure does not go far enough, and in the next, that it goes too far. When the resolution was first brought in, the gentleman thought the words used too indefinite. The word "usurpation," could not be defined. Now he complains that the word "usurp" is not found in the bill. His reasoning in one case must be wrong.

But the gentleman from Pennsylvania resorted to another idea, and he has frequently assumed it. "You are making your law too indefinite; it will rest wholly in the discretion of a court, whether a man is an offender or not. So that a federal man will be found innocent, and an antifederal, guilty." The gentleman must know, said Mr. E. that this objection does not go to this bill in particular. — Mr. E. enumerated a number of cases in which the intent with which the action was done, remained to be ascertained by a court, before any penalty could be inflicted, and in which federalists had no better chance than antifederalists; and he believed the bill was as definite and correct, as if it had been left to the ingenuity of the gentleman himself to have formed it.

Mr. E. took notice of what had fallen from the gentleman from Maryland (Mr. Smith) and was clearly of opinion that the cases which he had stated, were not within the bill. But that gentleman, said he, speaks invariably of measures of defence; but when the question comes to be taken, from some cause or other, we always lose his vote.

But the gentleman says this bill does not embrace the case of a treaty. It was never intended. But he also says it goes to abridge the liberty of speech. This is a favorite subject with gentlemen: it serves well to raise clamor, and seems only calculated for that.— It might as well be said that the privilege of speech is taken from a man that is punished for perjury.

Mr. Harrison moved a recommitment of the bill for the same reasons which he had before stated.

Mr. S. Smith seconded the motion for a recommitment; he wished to have the bill recommitted, he said, that it might be modified in such manner that he might vote for it; for notwithstanding the insinuation of the gentleman from Connecticut to the contrary, he wished to vote for it, provided it is rendered less exceptionable.—

Doubting his own legal knowledge, Mr. S. said he had taken the opinion of a professional gentleman of the first abilities (neither a resident nor a citizen of Pennsylvania) with respect to the cases which he had already stated as seeming within this bill, who had confirmed him in the opinion which he had already stated to the house. Mr. Smith read an amendment, which he said he would propose, if the bill should be recommitted.

Mr. Otis stated his reasons against the recommitment of the bill; so did Mr. Bayard. Mr. Harper and Mr. T. Claiborne spoke in favor of the recommitment. The question was at length taken by yeas and nays as follow:

YEAS.

Messrs. Baer, Baldwin, Bard, Bartlett, Blount, Brent, Brown, T. Claiborne, W. C. Claiborne, Clay, Clopton, Davis, Dawson, Dent, Eggleston, Elmendorf, Evans, Findley, Freeman, Gallatin, Gillespie, Gregg, Grove, Hanna, Harper, Harrison, Havens, Holmes, Jones, Locké, Machir, Macott, Mathews, M'Cléfachan, M'Dowell, New, Nicholas, J. Parker, Skinner, S. Smith, W. Smith, Spaight, Sprigg, Stanford, A. Trigg, J. Trigg, Varmunt, Véhable, R. Williams.

NAYS.

49.

Mess. Allen, Bayard, Brace, Brooks, Bullock, Champlin, Chapman, Cochran, Craik, Dana, Dennis, Edmond, A. Foster, D. Foster, J. Freeman, Glen, Goodrich, Gordon, Griswold, Hindman, Hosmer, Imlay, Kittera, Lyman, Morgan, Morris, Otis, Isaac Parker, Pinckney, Reed, Rutledge, Schurman, Sewall, Shepard, Sinnickson, N. Smith, Sprague, Thatcher, Thomas, Thomson, Van Alen, Wadsworth, Waln, J. Williams.

44.

A message was received from the Senate, informing the House, that they would be ready to receive the Managers of the House of Representatives, and the Counsel for the defendant, on Monday next, at twelve o'clock, to render judgment in the impeachment of William Blount.

The House adjourned, on motion, to Monday at twelve o'clock, in order to afford time for the Managers of the impeachment to appear at the bar of the Senate at the time proposed.

Monday, January 14.

Mr. Waln presented a petition from Messrs. Pratt and Kintzing, praying for an allowance of certain drawbacks, which was referred to the committee of commerce.

Mr. Sprigg presented a petition from the orphan children of Alexander Trueman, praying for an extension of the law of last session for the relief of widows and orphans of officers killed in the service of the United States. Referred to a select committee of three members.

Mr. Bayard from the managers appointed to conduct the impeachment of William Blount, made a report, stating that the ma-

nagers had attended this morning upon the Senate agreeably to their appointment, and received the judgment of the Senate on the trial of impeachment; which is, that the plea filed by the counsel of the defendant is sufficient, and that the impeachment is therefore dismissed.

The bill for establishing an uniform system of bankruptcy thro' out the United States, was read the third time, and the question being,—“ Shall this bill pass ? ”—

Mr. Gallatin said, it had so happened, that during the discussion which had taken place on the several sections of this bill, its principle had scarcely been touched upon, no motion having been made to strike out the first section, which is usually done to bring the principles of a bill into view. He would, therefore, now make a few observations on the bill itself.

So far as he understood the object of a system of Bankruptcy, it was calculated to afford three advantages; first to check the career of a debtor who might be supposed to be either insolvent, or to have an intention of defrauding his creditors, by taking possession of his property and putting it into the hands of assignees; the second advantage of such a system, is an equal division of the Bankrupt's effects amongst all his creditors, without distinction, as to the nature of their debts; the third is, the releasement of unfortunate debtors, who from accident or other unforeseen events, may not be able to pay their debts,—not only from personal process, but from any future attachment against the property, they may hereafter acquire.

These, he believed, are the advantages proposed by this system; and although, under his present impressions, he should be obliged to vote against the passing of this bill, he was not blind to these advantages. Having stated this, he would proceed to mention the reasons which, notwithstanding these benefits, led him to conclude that it is not proper, at present, to pass a law on this subject.

It appears to me, said Mr. G. that two circumstances ought to be admitted as having existence in a country, before a system of Bankruptcy can be proper, or generally useful; first, not only that a nation shall be in a considerable degree commercial; but also, that the different professions and occupations are so distinct, that it will be easy to distinguish betwixt those who are traders, and come under a bankrupt law, and those who are not traders, and ought not to come under it. In Great-Britain, from whence this system is borrowed, this distinction exists—the different trades and occupations of men being so well distinguished that a merchant and a farmer are rarely combined in the same person; a merchant is a merchant, and nothing but a merchant; a manufacturer is only a manufacturer; a farmer is merely a farmer,—but this is not the case in this country. Here, said he, it is well known, that the different professions and trades are blended together in the same persons; the same man being frequently a farmer and a merchant, and perhaps a manufacturer.

The object of this system is to apply to persons only who follow the business of buying and selling. But it is well known, that as this bill is copied from the British law, we must not only adopt the law, but the decisions which have taken place upon it, in Great-Britain, as our guide; from which it will be found that it is not necessary that a man should get his living altogether or principally from any trade, to come under the Bankrupt law; but if he blends the professions of farmer and trader, he is as liable to be made a bankrupt, as if he were to be made a trader only. And if this decision, said Mr. G. is taken, one half of the people of this country, may, in some shape or other, be considered as traders. Go, said he, into the interior of the country, and you will scarcely find a farmer who is not, in some degree, a trader. In a grazing part of the country, you will find them buying and selling cattle; in other parts, you will find them distillers, tanners or brick-makers. So that from one end of the United States to the other, the people are generally traders.

Consider, therefore, said Mr. G. that if this bill passes, it will not apply here as it applies in Great Britain, but extend much further, it will reach persons who ought neither to be disturbed or benefitted by it. The second circumstance essential to exist in a country, in order to make a Bankrupt system good, or even tolerable, is the facility of converting into specie, without much loss, the kind of property generally held by traders, or at least of easily obtaining credit on that property.

Among the acts which are described as making a man liable to become a Bankrupt, are some which although they may be an evidence, either of intended fraud, or of absolute inability of paying, may also be owing only to a temporary embarrassment. Yet a bare failure of payment, if attended with arrest, or a mortgage, is considered as a symptom of a person's intention to defraud his creditors, and a reason why a commission should issue against him.— This, Mr. G. said, might be proper in a country where there is plenty of circulating medium, and in which the goods and effects of traders can easily be converted into money. In Great-Britain, if a trader does not discharge his engagements, and is "arrested and remains two months in prison, or being arrested for debt, shall, in order to gain a large time of payment, or a reduction of the demand, mortgage his or her goods, or confess judgment, or give a power so to do, &c." an act of this kind, where property can so readily be turned into money, may be considered as a proof of an unwillingness to pay, or as a design to wrong the creditors of the person who does it; but the circumstances of this country are very different, and this formed his principal objection to this bill.

In the first place, a great part of property held by great numbers of the traders of this country, out of the cities, and of many in the cities, is landed property and not personal. It is known that personal property can generally be converted into money. Per-

sonal property has always a certain price current; but this is not the case with respect to land. The value of land depends more upon opinion, and is therefore less certain; and on this account, when a man wants to raise a sum of money on a sudden, he will generally make a far less sacrifice, in disposing of personal, than of landed property. Besides there is no proportion betwixt the facility of selling landed property here and in Great-Britain, nor as to the quantity held by traders. The merchants of Philadelphia, for instance, own a much larger property in land, compared with their ability, than the same description of persons in London; and if the comparison be extended out of the large cities, the dissimilarity will be much greater. Add to this, what he before mentioned, that farmers and traders are generally blended in one character, and it will shew the unsuitableness of this country for a Bankrupt system.

The consequence of a bankrupt law here, Mr. G. said, would be, that many honest men who are perfectly able to pay all their debts, and have a handsome surplusage, if time were given them, would be made bankrupts, and have their property taken from them and sold for much less than would satisfy the demands of their creditors.—That there is this difficulty in selling lands, Mr. G. referred to the laws of the several states, some of which provide that land shall not be sold at all for the payments of debts, and others that it shall not be sold under a certain time. In some of the Eastern states, when land is taken in execution, an appraisement is made of it, and it cannot be sold, except the creditor will take it at its valuation. In Pennsylvania, where he believed debts are as well paid as in any other state of the union, if an execution is obtained on land, the debtor may summon a jury to make a valuation of it, and if the jury be of opinion that the land will pay the debt, with interest, in seven years, the land cannot be sold. These laws, said Mr. G., have been found necessary, in order to prevent the sacrificing of land at a rate so much below its value as it must sometimes be sold for, if it were always liable to be sold for debt, as personal property.

If this bill should pass, all those state regulations respecting the sale of land would fall to the ground under the bankrupt system, and, from this circumstance, a great number of persons would be involved in ruin, who at present believe themselves in comfortable circumstances. The effect of this law will be, that one foolish or illnatured creditor, may issue out a commission against a trader, which will ruin him, though all the rest of his creditors, being more wise and considerate, might be disposed to allow their debtor time, knowing that while the property remained in his own hands, his exertions would be greater to get its value, than if it were taken from him, and put into the hands of assignees, who will not be disposed to take any extraordinary pains to dispose of it for its full value. Perhaps, as it may relate to personal property, the assignees might dispose of it nearly as well as the owner; but this never would be the case with respect to land. Nor would the only evil be neglect, or a want of attention to the interest of the bankrupt.

The business would be wholly in their power, and he apprehended a door would be opened to more fraud, than the acts of this kind have produced in Great Britain, though they have been there very great.

These, said Mr. G. are the general objections which I have to this bill. I have some others of less moment. In the first place, this law comes at once upon the United States, and will subvert all the municipal laws of the several States, wherever it operates. Though he allowed the principle to be a good one, that, where a man cannot pay the whole of his debts, all his creditors should receive an equal share of his property; yet it would be hard upon a man who had, for two or three years past, been endeavoring to obtain judgment against his debtor, to be left to bear all the expences of his suit, and come in with other creditors under a commission of Bankruptcy.

Another inconvenience which had been foreseen and attempted to be remedied, but which had not been remedied, would be, with respect to bona fide sales made by a bankrupt to persons who had no knowledge of an act of bankruptcy having been committed.

If, said Mr. G. a bankrupt law is to pass at all, this bill is ill timed. It ought rather to have been passed at a time when our commerce was in a more flourishing state than it is at present, as it was then more in the power of traders to pay their debts punctually. He was not able to judge of the situation of the United States at large in this respect; but in the part of the country from which he came, he knew that three years ago it would not have affected them in the least. All the shopkeepers were then able to make their remittances regularly; but now, from the scarcity of circulating medium, the fall of produce in some parts, the failure of trade in others, the capture of our property by foreign nations, the disorders which have for two years afflicted our metropolis, and from the fall which has taken place in the price of land, there is a greater difficulty amongst the storekeepers in making payment of their debts in the cities, than was ever before experienced. They want more time, and to throw their property into the hands of assignees, by means of this law, would make the matter still worse. Gentlemen who came from other parts of the Union would be better able to state the manner in which the law would affect them, than he could do. He believed in some parts it would bear more hardly than in Pennsylvania.

Mr. G. said, he would not pretend to examine all the details of this bill; but he would take some notice of three of its clauses. One of them is the exclusion of a certain description of persons, who ought, in his opinion, if the bill passes at all, to be included.—And the reason of this arises from the difference of circumstances between this country and Great Britain. In that country, land is not an article of merchandize. No set of persons there follow the business of buying and selling land, and it is well understood, therefore, that these persons dealing in land, are not included within their bankrupt law. But, if any description of persons in this country, ought to be placed under a law of this kind, it were necessary to stop any description of persons in their career, not only on their

own account, but because they are involving thousands in their ruin, they are land-jobbers, because they make land as much a merchandize, as a merchant does his goods.

In what situation, asked Mr. G. are persons of this description placed? In this, if they do not chuse it, they need not come under this law, but may laugh at their creditors; but if any of them conceive they shall be benefitted by coming under its provisions, they have nothing more to do than commence some other sort of trade, for a short time, and then become bankrupts. So that they are put in the best possible situation for themselves, and the worst for their creditors.

He believed there is another description of persons not included in this bill. Perhaps, however, he was mistaken; if so, gentlemen would doubtless put him right. Persons holding bank stock, or any other public securities, are not considered as traders, because these securities are not considered as merchandize.

So that it appears, that land-jobbers and stock-jobbers are neither of them included under this act, whereas, from what we have seen of bubbles in this country, he thought them a thousand times more likely to happen amongst this description than any other.

When, said Mr. G. it is known, that laws of this kind have been found so deficient in their execution, in Great Britain; that it has been found necessary from time to time, to add penalties and to follow fraud from place to place, we ought to pause before we introduce the system here, where from the sparseness of our population it will be so much more difficult to carry it into effect. If in Great Britain, where business of this kind lies comparatively within a small compass, where every thing is within the knowledge of the tribunal by which the commission is issued, so much fraud is practised, that the becoming bankrupt is known to be a kind of trade, notwithstanding all the sanguinary laws which have been passed to punish these frauds, he did not believe it could be carried into effect in any tolerable manner here. So great, indeed have been the evils attending this system in that country, that the most sensible writers on the subject, doubt whether bankrupt laws have not, upon the whole, done more harm than good.

In this country, said Mr. G. it will be still more difficult to guard against these frauds, as we have not been in the habit of providing such a guard, and heavy penalties will be found necessary. Even in this bill, which is the first essay on the subject, he found proceedings very repugnant to his feelings. He would mention one, which was, the commissioners have power to examine the wife of a bankrupt upon oath, for the discovery of concealed property, and if she does not appear, or refuses to be sworn, she is to suffer an imprisonment of from two to ten years! So that, in the very outset of this business, the fear of fraud, makes it necessary to overthrow all our regulations of common law, and cause a wife to be called as a witness against her husband.

Mr. G. believed, however, that the system might produce good in-

large cities, but no where else. Almost the whole of the capital in America, which might be lent upon interest, was accumulated to the amount of 20 millions of dollars in the banks, and these gave relief only to the inhabitants of cities who might, if they had property, have on any emergency recourse to them ; whereas, if a store keeper in the country wants money, he is under the necessity of mortgaging real property, before he can obtain it. If the law only applied to cities, he would vote for it, but he could not consent to oppress the country traders by such a system. Gentlemen have attempted, indeed to define the law, so as that it may fall only upon large traders, by declaring that no man who does not owe 1000 dollars to one creditor, 1500 to two, or to more than two, 2000 dollars, shall be liable to be made a bankrupt. But this provision, said Mr. G. must hereafter be changed, because traders of this description would complain, and with justice, that they are deprived of the same remedy against their debtors which has been applied to them.

In the next place, Mr. G. believed that if such a system is wanted, it is much too unwieldy to be managed, as proposed in this bill, and he thought it better for such States as might want them, to pass bankrupt laws. But he believed it to be a good evidence to prove that they did not want them, that they had not generally passed them. He had heard it said, that the reason of this was, that they expected the United States would pass a general law, as authorized to do by the Constitution. Mr. G. knew that this had not been the reason which had formerly actuated the Legislature of Pennsylvania, where there has been no bankrupt law for several years. He was himself in the Legislature when it expired, and there was a very general vote against its being renewed, though many respectable merchants, and particularly the city members, were then anxious to see one passed, from the idea that a majority of the Federal Legislature could never be persuaded to pass a general law on the subject. But it was not renewed, because it had been found productive of nothing but fraud ; and if enquiry was made in other states, it would be found that the reason why bankrupt laws had not been passed, was not from an expectation that the United States would pass a law on the subject, but from their dislike of the system itself. The fact is, said Mr. G. that we are now asked to pass this bill by the minorities in the several state legislatures, who have been unable to get a state law on this subject.

This bill, said Mr. G. when reported, was not to apply to debts contracted before the passing of this act ; but this clause has been expunged. Gentlemen had said that notwithstanding this, the law is not *ex post facto*. Agreed, that the distinction of the gentleman from Delaware is correct, it will not be said, that the law will not have a retrospective effect. When a person contracted a debt before the passing of this law, he did not contemplate any such law, and ought not to be affected by it ; for if he had known that if he did not pay at a certain time, he might be made a bankrupt of, it is

probable he would not have contracted the debt. It would operate in the same manner with respect to creditors for though many are pleased with this law, others are not. He knew he had some debts owing which he looked upon as rather doubtful, but he considered them as made more precarious by this law. An individual, if not oppressed by this act, might pay 20s. in the pound, but if made a bankrupt, might not pay 10s. At all events, it would place both debtors and creditors in a different situation from their present one.

Present debtors, Mr. G. said, ought to be excluded from the operation of the bill altogether, that debtors and creditors might remain on the same footing that they were upon before the law passed.

Mr. G. concluded by saying, that he had thus stated his objections to this bill and should be glad to have further light thrown upon the subject. At present he thought the bill ought not to pass. Adj.

Tuesday, January 15.

Mr. Gordon had no doubt he should stand exempted from the censure which the gentleman from Delaware had last applied to the gentleman from Pennsylvania. If he was sure the passing of this bill would have the effect of uniting all the people of the United States in a cordial support of their government, though he was far from approving the bill, he would certainly vote for it; but this was a mere speculative opinion, the truth of which was very doubtful.

That a Bankrupt system has many advantages attendant on it, no one, Mr. G. said, would be disposed to doubt. The only question is, whether at this period of time, the evils which may attend it, would not over-balance the good, being a system so totally different from those of the several states. If he was satisfied that this would not be the case, he would vote for it; but doubting on this head, he should be obliged to vote against it.

The principles contained in this bill, Mr. G. said, had been frequently before the house, but he believed never in so perfect a form as at present, as the accuracy of the gentleman from Delaware, had passed over its sections again and again, and it had received the aid of the legal and commercial knowledge of his friend from Massachusetts (Mr. Sewall.) He believed it had now attained as perfect a shape as could be given to it.

The leading principle of a bankrupt system, said Mr. G. is to prevent debtors from defrauding their creditors. This is doubtless an important end, if it can be attained, without producing any considerable mischief; such a system will certainly induce debtors to be more punctual in discharging their engagements than they otherwise might be, from their fear of being made bankrupts; and of course having their property taken from them. The question is, whether this country is fitted for such a system? He was of opinion we are not arrived at that state when such a law would be de-

sirable, not having a sufficient quantity of circulating medium, to enable debtors to comply with its requirements. He believed, before a system of this kind was adopted, there ought to be a certain proportion existing in the community between manufacturers and merchants, in order for it to produce the benefits contemplated by it. Where this is not the case, in his opinion, it would involve a country in greater difficulties than it experienced before the system was adopted ; and instead of making the payment of debts more certain, it would have a contrary effect.

Manufacturers in a country said Mr. G. may be considered as a medium between the merchant and the husbandman, by whose agency the surplus produce of the land is transferred to the merchant ; and without this description of persons, there cannot be that ready compliance with engagements, and therefore a system of bankruptcy will certainly be pernicious. How does the case stand, said Mr. G. in this country, with respect to intercourse between merchants and traders ? By what means does the trader discharge his debts to the merchant ? It is well known that the farmer disposes of his property to the country storekeeper, and that in all parts of the United States, he cannot command money for his produce ; it is not an article of such immediate necessity as to force immediate payment. But where there is a certain portion of manufacturers who want a constant supply of provisions, the case is different, and cash is paid.—In England, this has produced a very different state of things from what exists here, or can exist here for many years to come. A farmer can here sometimes dispose of his produce for money, but sometimes it lies dead upon his hands. The country trader gives credit to the farmer, and when he fails to pay at his appointed time, the trader is obliged also to disappoint the merchant, and perhaps obliged to do some of those acts which are always considered as amounting to acts of bankruptcy. This state of things, would not, in his opinion, justify the introduction of a bankrupt law.

Gentlemen in favor of this bill, aware of the inconveniences which would arise from extending a bankrupt system throughout the United States, have attempted to do what cannot be completely accomplished, to confine its operation to the commercial cities.—They are ready to allow that if the law is applied to small country traders, it will do more harm than good. It is therefore provided that no person shall be made a bankrupt, who does not owe 1000 dollars to one person, or 3000 dollars to a number of persons. If it can be shewn that this will not produce the effect intended, it will form a strong objection to the bill in its present shape.

Let us, said Mr. G. bring the case of a merchant before us, against whom a commission of bankruptcy has been issued. Who are the debtors of this merchant ? They are mostly country traders. The affairs of the merchant are thrown into the hands of assignees. What is the consequence ? All the evils of bankruptcy will at once

attach to the country traders, without any of its benefits. The assignees will force immediate payment of the debts due to the bankrupt, and in order to effect this, it will be found necessary to attach and sequester the property of many of these persons. And if their property shall not be found sufficient to discharge their debts, they will be liable to be thrown into goal: and to remain there, since they are deprived of all benefits derived to larger traders from the bankrupt law, from the smallness of their concerns. This is not all, the country trader finding himself thus situated, is under the necessity of using compulsory process with his debtors; and the consequence will be, in the New-England states, that writs will be issued against all the debtors of such persons, in order that, if possible, the country trader might save himself. Nor is this an imaginary case, it must naturally grow out of law suits, and attachments must follow.

But if this evil should not arise, he would for a moment, consider the operation this law might have upon four of the Eastern States. In these states, a creditor, when his money is due, can obtain a writ against his debtor which operates as a lien upon his property. He believed the effect of this system would be, to sign a death warrant to this practice.

A great proportion of the law suits carried on in the Eastern states, arise from connections between shopkeepers and farmers. In what situation will the farmer be placed if this bill passes, who has disposed of his property on credit? By the State Law to which he had referred, when he suspected his debtor to be unable to pay, he might take out a process to secure his debts; but, if this bill became a law, after he has taken out his writ of attachment, and he is about to obtain judgment, the whole may be done away by a commission of bankruptcy, and the farmer not only disappointed in receiving his money, but saddled with the costs. A creditor will then have no mode of realising his demand upon his debtor, but will be obliged to trust to his word, or wait until a commission of bankruptcy be issued against him.

Whether it be right, said Mr. G. that the system now practised in the Eastern States, to which I have alluded, ought to continue, is not the question: I only state that this would be the effect, and unless we are persuaded, it ought to be done away, this would form an objection to a bankrupt law.

It has been argued by gentlemen in favor of this bill, that it is extremely hard to see a person who has been unfortunate, depriv'd of his liberty, and liable to imprisonment for life. Such a case must indeed interest every man's feelings, but will this bill remedy the grievance? With respect to merchants, it will have the effect; but traders in the country and in small towns will remain in the same situation they are in at present; and certainly men of this description are as much entitled to our commiseration as those who trade on a larger scale.

Whether this Bankrupt system will receive so extensive a construction in our courts, as it has done in those of Great Britain, could not now be told. An objection was yesterday made, that it would apply to many persons in the country who are not regular traders, but who are nevertheless, though farmers, sometimes engaged in trade. The objection was answered by saying, that the same phraseology that is used in the British law, is not used here, and therefore the objection would not hold. This, said Mr. G. is mere matter of opinion. The words are not precisely the same; but it struck him that they are sufficient to authorize a very extensive construction; for they are "Any person actually using the trade of merchandize, by buying or selling by gross or by retail." Mr. G. supposed upon the most obvious construction of these words, that they would be more comprehensive than those used in the British statute, which are "any person getting his livelihood by trade, &c." He thought the description used in this bill might be applied to a man who had not been in trade a month, though he did not in future intend to gain a livelihood by it; but whether his idea was right or not, was immaterial. It is certain it would implicate many persons in this country besides merchants.

It had been said, that persons merely insolvent could not be made bankrupts, but only those who have been guilty of some fraud; so that it will not only be necessary to be unfortunate, but fraudulent, before a man can become a bankrupt. One of the acts mentioned in the first section is certainly not fraudulent, where it is said "that a person being arrested for debt shall in order to gain a longer time for payment, or a reduction of the demand, mortgage his or her goods or lands, shall be deemed a bankrupt." A man finding himself hardly pressed, could not be charged with acting fraudulently, if he did such an act. Mr. G. stated several cases to shew the unreasonableness and absurdity of the doctrine which should require a man to be fraudulent before he could have the benefit of the bankrupt law.

The gentleman from Delaware has said, that either we must have a bankrupt law, or insolvent laws must become general, as it would not answer for persons to be confined in goal for life. There is, doubtless, said Mr. G. great hardship in such cases; but it does not follow, that this law will remedy the evil. He believed it would not. Mr. G. presumed, that it was owing to particular circumstances, that a bankrupt system was so anxiously desired by some gentlemen, more than for any permanent reason. But he did not think it was owing to the natural operation of commerce, that a number of persons are now in goal; but from a spirit of speculation which had raged to a great extent in this country; which has driven the merchant from his counting house, to speculate in land, and produced a sort of mania amongst the people of the United States. The consequence is that our goals are crowded with persons anxiously solicitous for an act of this kind. Mr. G. did not

think it necessary for the sake of these persons nor for the public good, to pass a law of this kind. With respect to persons who may be considered as honest debtors, and who have faithfully given up their property to their creditors, it does not often happen that men of this description are suffered to languish in a prison.

With respect to a circumstance much enlarged upon by the gentleman from Delaware, respecting the sale of land, Mr. G. would observe, that he did not believe the principle laid down by that gentleman was correct. He did not think that the provision which prohibits the sale of lands for debts, in some of the States entirely, and in others for a limited time, arose from the feudal system; but, as the gentleman from Pennsylvania had said, for the want of a sufficiency of circulating medium, and he would venture to say, from his little experience in business, that a practice of selling land by vendue in the same manner as personal property, would be attended with great inconveniences, and it would scarcely ever fetch half its value.

Mr. G. concluded by saying, that a few years hence the Legislature would be better able to judge of the effects of a bankrupt system; but, at this time, believing that it would be productive of more evil than good, particularly in the Eastern States, he had thought it his duty to oppose it.

Mr. Sewall said, his friend from New-Hampshire objected to the operation of a system of bankruptcy, upon grounds which he was surprized that he, above all other men, should have taken. It seems to him that no mode is necessary to be adopted for the better collection of debts; that creditors ought to be left to get their money as well as they can. Hence, said he, we hear the gentleman lament the want of circulating medium, and the horrors which will be occasioned by the collection of debts in the country, in case this law goes into effect.

This law, said Mr. S. will not affect those who do not buy to sell again; but those who do buy to sell again, ought to be exposed to all the inconveniences, as they will receive all the benefits of a bankrupt law. We ought not, said he, to consider this as the first mode proposed for collecting of debts, but compare it with such as are in existence, and if it be found that this will be beneficial to certain persons, it ought to be adopted.

A system of bankruptcy is limited in its extent to persons concerned in commerce. Extensive credits are essential in all commercial communities, and as had been already stated, merchants are constantly liable to accidents which may disable them from paying their debts; but if they became bankrupts, he would not only have their personal property sold, but also their land, and let them suffer the loss, however great it might be, by its being thus sold. And this, Mr. S. said, might serve as an answer to all the gentleman had said about country traders. They are truly the medium between merchants and farmers; but if they hold lands, and are not able to pay their debts, they must submit to their being sold. Admitting,

said Mr. S. that we shall not then see so many country traders, as at present, this will be no disadvantage to the community, as the larger stores deal more advantageously for the public. A number of men who carry on business of this kind, might be more usefully employed. He was willing, therefore, that the diminution of this kind of traders, should be one of the effects of this law.

But the main principles of the bankrupt system are to avoid the extension of fraud. In New-England, a man may be taken by an attachment of his creditor. His friend from New-Hampshire lamented that this process should fail. It would fail, indeed, where merchants and traders have dealt to so large an amount as to come within the bankrupt law; but it will only fail so far as to prevent him from getting his whole debt—he will nevertheless come in for his share along with his other creditors; and it could not then happen, as it now frequently happens, that a country trader divides his property among his neighbors, who are either his creditors or pretend to be so, and the creditor in the city perhaps never hears of the transaction, until all the property is divided. Under this law, a man's effects would be fairly looked into, and equally divided amongst all his creditors without exception. Mr. S. hoped the bill would pass.

Mr. Baldwin had felt himself entertained and instructed by the temperate and able discussion which this subject, so important to the interests of this country, had undergone. There were still one or two points of view, in which he wished to present it to the house, which had not yet been so particularly noticed, and which had now, as well as on former occasions, when this bill was under consideration, considerable force in forming his judgment against it.

Had this question of passing a bankrupt law presented itself in an ordinary legislature, the general utility and expediency of bankrupt systems, and their suitableness to the circumstances of this country, which has been the principal ground of this discussion, would have been the only one which the subject could have had, and the judgment must have been formed on those grounds.

The real practical question which is presented to the house on this occasion, seems to be, what are the inducements for this legislature to take up the subject? It must be for the sake of making a uniform system of bankruptcy for the whole country: the arguments to enforce the measure must be derived from the importance of uniformity on this subject, rather than from the general principles of bankrupt laws, on which the states have been in the habit of judging and legislating at their pleasure. It is on the necessity of having a uniform system that the mind must principally rest in forming a decision of this question. The contemplation of uniformity on any subject, at first excites pleasing sensations; indulging this pleasing sensation might lead us to expect and to attempt to make all the laws on all subjects, the same through the whole country; it might be urged that if a person came from one state into another to settle an intestate estate, in which he was interested, it would be unjust that he should not be allowed the same advantages which had been given to the citizens of that state in the one from which he came: the same

might be extended to any other subject, and the argument will always be plausible.

He would also acknowledge, that commercial subjects are in their nature so extensive, and involve in the same transactions interests and persons so remote from each other, that uniformity not only appears more pleasing, but is in fact more desirable and important on that, than on most other subjects. It had already been carried far in the provisions of our law, but he believed it could not safely be carried so far as was proposed in this bill. Of all branches of legislation which relate to commerce, bankrupt laws seem to be more local in their nature, and most to require the same state of advancement in commerce in the places which are to be subject to them, to have them equal or even tolerable in their operation. There are few countries so well suited to the uniform operations of such systems, as Great Britain; their insular situation confines their expectation of greatness to those pursuits; it is built up on commerce; he could conceive that a smaller island might be still more entirely commercial, and that a bankrupt system might apply as exactly to their circumstances, as to a small commercial neighborhood. How very different is the situation of this country? There are not more than five or six places which are at all in similar circumstances.—The introduction of such a system to operate over this whole country, would be to overturn all the ancient usages and institutions which their interests have heretofore pointed out as necessary, to accommodate them to the circumstances of a smaller part, who bear no proportion to them; this had already been so strongly stated, it was unnecessary for him to pursue it farther. If the question of passing a Bankrupt law had occurred in a state legislature, he tho't the subject would present itself even to them, in such a point of light, that rather than to generalize legislation on that subject, and send it forward to Congress to have a general bankrupt law passed, to operate over the whole country, it would be much more likely to take the other direction, and be sent down to a kind of legislatures which exist in some states, inferior to themselves, such as cities and corporations, who have power to pass bye-laws, and whose powers might be extended to make regulations in the nature of bankrupt laws, such as their local circumstances most particularly required.—At any rate he thought it not adviseable to make it a subject of more general legislation than what is competent to the present state governments.

But it is insisted on, said Mr. B. by some gentlemen, that as the power to pass uniform laws on the subject of bankruptcy is expressly given to Congress by the constitution, it is their duty to do it, and some go so far as to say that it is not proper for the states to legislate on that subject. He thought there was not great weight in that argument. Congress not having passed such a law for these ten years past, and the states having legislated upon it in their own way, is a sufficient proof that that has not been the understanding of the constitution. Power is also expressly given by the constitution to exercise exclusive legislation over the ten miles square which has

been ceded for the permanent residence of Congress; this exclusive legislation has not been exercised, but has been submitted to the local jurisdictions where the territory lies.

Many other instances might be adduced to prove the same thing if it was necessary. The fact is, the powers given to Congress as well as to all other legislatures are in general submitted to their discretion to use them as the circumstances of the country should require. He had no doubt in saying, as well from the perusal of the instrument, as from his own recollection, that many of them must have been devised not for absolute but indirect operation, it was supposed that the existence of the power in Congress would act as a control and check the abuses that might otherwise have taken place, and prevent the necessity of using it. Any other view of that instrument, he thought, would lead to great perplexity and embarrassment. He was sure it was the one which its best friends had originally indulged, and had made the administration of the government much more practicable and successful than it otherwise could have been.—This power of passing a uniform act of bankruptcy, he had always thought was wisely given. Some of the states had before that time fallen into the habit of making a kind of legislative and judicial war upon the citizens of other states; these general controuling powers tho' but little called into use, had without doubt had effect in preventing the continuance of them. States which from their situation were more remote from commerce, might pass bankrupt laws which would unreasonably protect their retail dealers and greatly injure the merchants in large commercial cities; this power in Congress to controul such attempts, probably will prevent them even without the exercise of it. He had not heard of any such attempts since the existence of the present government. When they took place he would acknowledge then there would be an argument for the exercise of this power, to controul them—no such argument is even stated at this time to exist.

Mr. B. proceeded to consider the observations made by several other members; more particularly by the gentleman from Delaware, viz. that the states had made such bad bankrupt and insolvent laws, and had in general conducted that business so badly, that it was incumbent on Congress to take up the subject, to prevent in future such frauds as had already taken place in all parts of the country. No man regretted more sincerely than he did the abuses and frauds complained of, but he could see in the present bill nothing but the increase of them. He thought it would be well to examine the ground of that argument more particularly, before they undertook to act upon it. An intimate view of the affairs of all human governments, exhibited infirmities and imperfections; as a friend to this government, he wished they might appear so to have conducted their affairs on the difficult subjects on which they were obliged to act, as to be as justly free from reproach as the state governments in this country generally had been. The expectation is

scarcely to be indulged. Ordinarily speaking, that legislation is always most easy and most perfect where there is the greatest degree of similarity of circumstances in the persons over which it is to operate, and the most full and free interchange of feelings and interests between them. If there was an attempt to unite all Europe, or all the eastern continent under one government, it must deal only in a few very general subjects, or it would be found at once impracticable. To endeavour by weight or pressure, to bring together very dissimilar interests under the same legislation, has always been found a very difficult and hazardous experiment.—There was a certain point beyond which it could never be wise to attempt to extend such an experiment, unless the national existence demanded it. He thought the experience of this country, without exception, justified this remark. The limits of several of the state governments had already been found so extensive, as to involve interests so dissimilar, that it became more and more difficult to unite them under the operation of the same laws, and to carry them into full effect. Contentions, jealousies, and animosities were engendered, which there was no way to cure, but to give the privilege of making laws better accommodated to their circumstances. Those states generally appear to have been the most happy, and their laws best executed, where their limits were so small as to secure a good degree of similarity in the interests of the citizens, and in the operation of their laws, but not so small as to make the expences of the government too burthensome; and in proportion as you extend, the work becomes difficult and hazardous.

The same thing, he thought, appeared from a candid review of the short history of this general government. He did not accustom himself, to look back upon its measures for the sake of finding fault, but for the sake of deriving instruction, as a guide in future measures. It had thus far, in its operations, been principally confined to two objects—to pay for past protection, and to afford present protection. In undertaking to pay for past protection, they seem to have been under the impression of the same sentiment which is now recommended on this occasion, viz. that it was their duty to endeavor to do greater justice in principle than had been done by the legislators who had gone before them, and therefore they undertook to break up the old settlements, and to modify and settle it over again. He was willing to allow them the best intentions, but they certainly appeared very much to have failed in their object, the debt was nearly doubled by the intrigues and frauds to which it was exposed in the operation, a vast inequality of estates created in this country, and very little relief reached those who had devoted their blood and treasures to the public. He believed there were but a few at the present day who did not regret their undertaking to do greater justice than those who had gone before them.

In affording present protection the same thing presented itself: the Indian treaties and expeditions had been expensive beyond all

former example. The operation of building the frigates had been the subject of more particular enquiry, and more pointed censure from all parts of the house than any other ; it had always been his opinion that it was less exposed to such censures than most of the other measures. He never doubted the good intentions of those concerned in these transactions, but it clearly shews that it is more difficult to give effect to our good intentions than in smaller governments, and that they are more exposed to be interrupted by the bad intentions and frauds which always exist in all societies ; it ought to check projects of mere amelioration not justified by the reason of things or our own experience.

This subject of bankruptcy, he said had always been found one of the most difficult and perplexed problems in legislation, by all governments who have attempted it ; it had always called forth the utmost ingenuity of fraud and stratagem, to counteract their intentions, and has indeed been but badly managed even by the best governments. It had been before stated, that even in England, a nation so merely commercial, with all the powers of chancery which had always been accompanied with all the powers both of church and state, and enforced by penalties which neither the genius nor habits of this country could bear, the best and most experienced judges now doubt whether it is not more a refuge to fraud, than an aid to justice. This part of the subject had been so fully handled by others, he would not enlarge upon it. He had no expectation that such an experiment from this government would succeed well ; he was very confident it would do much mischief, and disgrace the government. A general government must, from the nature of things, be too loose and unwieldy in its movements, and too remote in many of its operations, to be able to counteract fraud and intrigue with as much success as smaller governments. He wished there might be seen the same caution and wisdom in using the powers that was displayed in the constitution in giving them. He did not rely most on the friendship of those who were continually urging the government on to the most rough and impracticable ground. If it was able to discharge with tolerable faithfulness and success those great duties to which no other legislature was competent, he hoped and trusted it would not be urged into those projects of amelioration, to which it was indeed well suited, unless called by some stronger reasons than presented themselves on this occasion.

The question being called for,

Mr. Otis said, he was sensible that the house must be fatigued with the discussion which had already taken place on this bill. Indeed every argument, perhaps, that can be used for or against it, had already been urged ; but he thought so unprecedented a satire as had been uttered on the constitution and government of the United States, by the gentleman from Georgia, ought not to pass without comment. He seems to think the general government inadequate to every object for which it was constituted ; that it is one-

qual to the forming of a system of Bankruptcy, or of providing for the payment of the National Debt; that it is incompetent to the building of a navy, to the defensive protection of our frontier, and in a word, that all the objects which it has undertaken would have been better done by the state governments. What, said Mr. O., is the inference to be drawn from this? Why, to be sure, that it would be better to dissolve it, and restore the old system of a confederation of the States; through a despair of being able to administer it to any good effect. Mr. O. thought the gentleman had pronounced a very ungraceful valedictory on parting with an old friend whom he had so long professed to support. If these be his sentiments, instead of pronouncing them on his departure from its administration, it would have been well if he had explained his creed at an earlier period.

Mr. O. differed in opinion, however, from the gentleman from Georgia; he believed this government perfectly competent to all the purposes for which it was instituted. And he thought there never was a measure more important in domestic legislation; none which would have a greater tendency to harmonize and conciliate the jarring interests of this great community, than a bankrupt act, of which the gentleman from Georgia spoke so lightly. It had been considered by the Convention which formed the constitution, as a proper object of national legislation. We cannot conveniently, as has been objected, make uniform laws regulating the titles and sales of real estates or testamentary distributions, without intrenching too far upon local laws and usages; but, said Mr. O. commerce is a general concern, and in this respect, it would be a desirable spectacle to behold in every part of the union, our citizens who are engaged in the same profession, governed by the same laws, and appealing to the same tribunals for justice.

Mr. O. did not mean to go at length into the subject; but he could not refrain from expressing his regret for the discordant and inconsistent system of the debtor laws of the several states.

In the part of the country where he lived, and in all the New-England States an individual, upon an impulse of resentment or jealousy, might destroy his debtor root and branch, by taking out an attachment against his property, and securing himself to the exclusion of all other creditors; in other states you may attach for the benefit of all the creditors, and in some others, you can make no attachment whatever. In one part of the union you may take lands at an appraisement, in another part you may sell them at auction, and in some states not at all. Again, in one state the body of the debtor may be committed until he pays his debts; in another state he swears himself free in a few days, and in a third, if he will swear well, he is not committed for an hour. Is there any reason, said Mr. O. for this conflict of laws amongst a people, who have the same interests, who speak one language; and whose contracts are framed upon the same principles?

He had no doubt but that a sense of honor and a habit of punctuality among merchants had, in a measure remedied this defect; but he believed that great inconveniences had arisen for want of a system of this kind. Misfortune, enterprise, speculation and a spirit of over trading have involved thousands in ruin. The compassion due to real misfortune is diminished by the number of its victims; and the disgrace that should attach to fraudulent bankruptcy is relieved by the influence of the delinquents. Men fail for millions; and though these Leviathans of speculation, after having sunk in the ocean for a time, may rise again and revel on the surface, yet the widows and orphans, the fair merchants, industrious tradesmen, and credulous friends, who are involved in the same whirlpool, rise no more.

To prevent these mischiefs said Mr. O. we should give to creditors a control over the property of their debtors, so as to stop the fraudulent in their career, and we should rescue the honest, but unfortunate insolvent from the oppression of a vindictive creditor. He was of opinion, this law would furnish the remedy desired. Among the various objections offered to this system, two only had appeared to him deserving of attention. One was, that our situation being very different from that of Great Britain, as our citizens often exercise more than one trade, it will be difficult to limit the extent of the act. In answer to this, he would say; that our situation in this respect, is precisely similar to her's, since both we and they are a commercial people. We have large cities, populous villages, and a country more or less populous. So have they. Our cities and villages, it is true, are not so full of people as theirs, yet the same division of labor and of professions, will be found in them. If you look at Boston, Philadelphia, New-York, and Baltimore, you find things much in the same state as in the large towns of Great Britain. In the villages, it is true, that professions are not so distinctly marked as in the cities, some of the mechanics being also traders. This is also the case in England; and if you go into the country, either here or there, you will probably find the farmer sometimes employed in tanning of leather or in making of bricks. But is it to be concluded from this, that it is impossible to ascertain who are, and who are not, the objects of this law? Without going into detail, he would give a short answer to this enquiry. If the business of buying and selling be a man's principal profession, he would be considered a trader, and be liable to bankruptcy; but if his trading be only an incidental thing he would not be comprehended within the act.

Another objection to this bill was, that from the peculiar circumstances of this country, punctuality in payment cannot be expected. To whom, said Mr. O. does this remark apply? To country traders? If so, he would allow that men of this description cannot always be strictly punctual; but these men will then be in a better situation under this act than they are in at present.

If a country trader is now tardy in his payments, each creditor has the strongest possible inducement to strive to be the first to compel payment; but, after a bankrupt law is passed, creditors will have the same inducements to be indulgent; they will know, that in case of failure, the bankrupt's property will be equally divided among them; that by striking the first blow they gain no advantage, and lose none by refraining; thus there would arise a common interest amongst them to put off the bankruptcy, and to give the debtors time to make payment, until it was evident a man could not overcome his difficulties.

Gentlemen complain of the scarcity of circulating medium, as a cause of the want of punctuality. The only way, said Mr. O. to make money plentiful, is to pass this law. The present scarcity is artificial. There is plenty of money in the coffers of the rich, and in the city banks, and it is because those who have it are afraid of trusting it in the country, under the present laws for the recovery of debt, that it is hoarded, or let at exorbitant interest. But when once the monied men are satisfied that the laws will secure their money to them, by a lien upon all the estates of their debtors, an honest trader will be able to obtain the loan of money on fair and legal interest. He hoped, therefore, the bill would pass.

Mr. O. having sat down, and the call being pretty loudly repeated for the question, the clerk proceeded to call the yeas and nays; when having called the first name, Mr. Harper and Mr. Nicholas, were both on the floor to have spoken on the question, but the Speaker informing them they were too late, the clerk having commenced his call, they sat down, and the call of the Yeas and Nays was proceeded with. The yeas and nays were taken as follows:

Y E A S.

Messrs. Allen, Bartlet, Bayard, Brace, Brooks, Champlin, Chapman, Cochran, Craik, Dana, Dennis, Dent, Edmond, Evans, A. Foster, Gillespie, Glen, Goodrich, Griswold, Hanua, Harper, Hindman, Hosmer, Inlay, Kittera, Livingstou, Machir, Matthews, McClenachan, Morris, Otis, Parker, Pinckney, Rutledge, Schurman, Sewall, Shepherd, Sinnickson, S. Smith, Thatcher, Thomas, Van Alen, Wadsworth, Walu. 44.

N A Y S.

Messrs. Baer, Baldwin, Bard, Blount, Brown, Bullock, Cabel, T. Claiborne, W. Claiborne, Clay, Clopton, Dawson, Eggleston, Elmendorf, Findley, D. Foster, J. Freeman, Gallatin, Gordon, Gregg, Grove, Harrison, Heister, Havens, Holmes, Jones, Locke, Lyman, Macon, M'Dowel, New, Nicholas, J. Parker, Reed, Skinner, N. Smith, W. Smith, Sprague, Sprigg, Stanford, Thomson, A. Trigg, J. Trigg, Varnum, Venable, J. Williams, R. Williams. 47.

Consequently the bill is lost.

Mr. Otis moved that the report made at the last session, on the petition of Thomas Cox and others, be referred to a committee of the whole house. Agreed.

Mr. Harper, from the committee of ways and means, said, that that committee having received from the Secretary of the Treasury, a plan for digesting and arranging into one act all the laws imposing a duty on spirits distilled within the United States, and on stills, think it would be advisable to have it printed, and had desired him to ask leave so do so. Granted.

Mr. Harper, from the same committee proposed the following resolution :

"Resolved, That the committee of ways and means have leave to report a bill to authorise the reimbursement of money advanced by our Consuls for the aid of sick and destitute seamen in foreign countries."

Mr. H. said, that twelve cents a day were allowed by law to our Consuls for every seaman who shall stand in need of support; but this had been an inadequate allowance for the present times.—Last session 30,000 dollars were appropriated for this object for the last year; he supposed 20,000 might be wanted for this; but the committee thought it necessary to have the expenditures authorized, before the appropriation was made.

The resolution being agreed to, Mr. H. reported a bill for this purpose, which was read and committed.

Mr. H. from the same committee, asked leave to report a bill making appropriations for the support of government for the year 1799. Granted.

Mr. H. also proposed the following resolution :

"Resolved, That so much of the report of the committee of revisal and unfinished business as relates to the act or acts respecting the compensation of Clerks, be referred to the committee of ways and means."

The compensation of the Clerks here referred to, had been made by a renewal of this act at every session. In order to prevent this trouble, the committee think it will be best to pass a permanent law upon the subject. The resolution was agreed to.

Mr. Gallatin presented the petition of Richard Gerson, praying for relief on account of a vessel of his which was detained at Bourdeaux, by embargo, and by that means prevented from returning to this country within the time stipulated by the law suspending the commercial intercourse betwixt this country and France. Referred to the committee of the whole to whom has been committed a bill farther to suspend the commercial intercourse betwixt this country and France.

Mr. Varnum, from the committee of elections, reported that Robert Brown was duly elected and entitled to his seat. Ordered to lie on the table. Adjourned.

Wednesday, January 16.

Mr. W. Claiborne presented the petition of Anthony Foster, attorney for an interpreter to the Choctaw Indians, praying for com-

pensation for certain services of the interpreter. Referred to the committee of claims.

Mr. Cochran presented a petition from Garrett Wickman, a soldier in the war, praying for compensation, which was referred to the same committee.

Mr. Livingston presented a memorial from committees of the Medical Society, of the Health Office, of the Chamber of Commerce and the Corporation of the city of New-York, stating the inconveniences and mischiefs arising from vessels arriving from foreign countries, discharging foul cargoes, and bad air, at the wharves of that city, during the hot season of the year, and praying Congress to provide a piece of land at the Narrows, or some other place distant from the city, where, stores being erected thereon, during certain months vessels may discharge their cargoes, and have them purified. Referred to the committee of commerce.

Mr. Gallatin called up the resolution which he laid on the table a few days ago, requesting the President to lay certain papers before the house respecting our dispute with the French republic.

Mr. D. Foster hoped the gentleman from Pennsylvania would not urge a decision upon this resolution at this time. He was himself at the Secretary of State's office this morning, and mentioned that the house were in expectation of a communication on this subject. He was informed that it was in forwardness, and might be expected to be made to-morrow. He hoped therefore the resolution would be suffered to lie: if not, he should move a postponement of it.

Mr. Gallatin agreed to its lying.

On motion of Mr. Griswold the house again resolved itself into a committee of the whole, on the bill for the punishment of certain crimes therein specified.

Mr. Isaac Parker said, when the resolution upon which this bill was founded was under consideration, he gave it all the consideration which its novelty and importance demanded. He was then satisfied that the object was a good one, and that there ought to be a law to carry it into effect, and he was highly gratified to find that there was so large a majority of the house of the same opinion.

This bill, said he, is founded upon the principle that the people of the United States have given to the Executive department, the power to negotiate with foreign governments and to carry on all foreign relations, and that it is therefore an usurpation of that power for an individual to undertake to correspond with any foreign power on any dispute between the two governments, or for any state government, or any other department of the general government to do it. But when the bill came to be reported, several gentlemen who voted in favor of the resolution, opposed the bill, on the ground that it went farther than the resolution authorised; as they believed it would include in its operation, individuals who might be pursuing their private affairs abroad, without any intention of interfering between the two governments. The objection was started by the gentleman from Pennsylvania (Mr. Gallatin) and prosecuted by several others. The gentleman from Georgia regretted

that the principle (which he allowed to be a good one) could not be carried into effect without affecting the rights of individuals. Mr. P. thought that gentleman, as he was one of the committee appointed to consider the subject, ought to have laid before that committee a plan which he thought better than the one reported, for he thought his objections went more to the principle of the bill than to its details.

The only objection urged against this bill which had any weight upon his mind, was that which complained that the bill was too loosely drawn, and that it would, from this circumstance, though it certainly could not be intended to do so, include citizens prosecuting their individual concerns in foreign countries, and bring them into jeopardy. If the whole scope of the bill was attended to, he did not believe that any such consequences could arise from it; because every person liable to a punishment by this bill, must be acting contrary to the authority of the United States, and persons of the description alluded to, are expressly authorised by law to prosecute their claims abroad. But an argument had been used by gentlemen all round the house, which had undoubtedly weight. It was this—“ You say these persons are not meant to be included, what objection, therefore, can you have to satisfy us that they cannot be included, by the admission of a proviso to exclude them.” Though he himself had no doubt on the subject, yet he thought it was no more than reasonable to remove those of other gentlemen. It is true the courts might force a construction of the law so as to include these persons within its operation, though this could never be expected. It was, however, doubtless proper to leave as little to the discretion of the court in penal law as possible. Under this impression, he had prepared an amendment for the purpose of excepting the persons in question from the operation of this bill.

Mr. P. said it might be objected to an amendment of this kind, that the proviso indicates, that it was the opinion of the legislature that without it, the law would have included the persons excepted. But he believed, this was not a just conclusion, since he had seen many acts passed, in which clauses of this kind had been inserted, merely with a view of removing individual doubts. It was with this view that he proposed this amendment. It was as follows:

“ Provided always that nothing in this act contained, shall be construed to abridge the right of any citizens of the United States, to apply by themselves, or their lawful agents, to any foreign government, or agent thereof, for the redress of any injury in relation to person or property, which such individuals may have sustained from such government, any of its agents, citizens or subjects.”

The motion was put and carried, 67 votes being for it.

Mr. Harrison supposed gentlemen would have sufficiently gained their purpose by having a law of this kind enacted, and hoped they would therefore suffer it to go out of our code at the close of a year. To effect this purpose, he moved a limitation clause.

The motion was negatived, 49 to 32.

Mr. Harper moved an amendment in the body of the bill in these words, "with intent to usurp the authority of the government of the United States, by intermeddling in any dispute, controversy or negotiation between the United States and such foreign government; or with intent to defeat or counteract any measure or measures of the government of the United States," striking out a few other words of surplusage.

After some objections made to this amendment by Mr. Griswold, Mr. Harper withdrew it.

Mr. Eggleston renewed the amendment.

Mr. S. Smith moved to amend it, by making it read, and with intent, instead of "or with intent."

After some debate, which we do not think it important to report, the question on this latter motion, was put and carried, 89 votes being for it. The question was then taken on the amendment as amended, and it was negative, 55 to 41.

The committee then rose, and reported the amendment proposed by Mr. Isaac Parker, which had been agreed to;—when

Mr. Nicholas called the yeas and nays upon it. The yeas were 69, and nays, 29. The nays were, Messrs. Allen, Bayard, Brace, Brooks, Champlin, Cochran, Craik, Dennis, Edmond, Evans, A. Foster, D. Foster, J. Freeman, Goodrich, Griswold, Grove, Hindman, Imlay, Lyman, Morgan, Mortis, Otis, Rutledge, Sprague, Wadsworth, Walm, and J. Williams.

Mr. Eggleston again renewed the amendment which had been originally proposed by Mr. Harper in the committee of the whole; but after some observations against it by Mr. Gallatin, as tending to place the crime proposed to be punished on more uncertain grounds than it stands in the bill at present, Mr. E. withdrew his motion.

Mr. Harrison renewed his limitation clause, and called the yeas and nays upon it. It was negative, 56 to 41.

Mr. W. Claiborne renewed the amendment which had been withdrawn by Mr. Eggleston, giving his reasons for so doing, that it would, in his opinion, make the bill more explicit than it now stands, and called the yeas and nays upon it. They were taken, and the motion was negative, 57 to 39.

Mr. Gallatin said, he wished to propose two other amendments to this bill. It appeared to him that this bill may not only punish as offences, acts not criminal in themselves; but suffer those which are criminal to pass unpunished. This bill makes it criminal "to enter into any verbal or written intercourse with any foreign government, or any officer or agent thereof, with intent to influence the measures or conduct of"—of what? "That government." So that it does not make it criminal to influence the conduct of an officer or agent of such foreign government. He allowed there might be cases in which it would not be criminal thus to influence the officers or agents of a foreign government. But it is possible, said he, that

individuals, without the permission or authority of the United States; that individuals who may be excluded by the Constitution from negotiating for the United States, may negotiate, not with a foreign government, but with its officers or agents, not to change the measures of their government, but to influence the measures or conduct of such officers or agents. And would not a conduct of this kind, he asked, be highly criminal? And might it not produce more serious effects, than the offences proposed to be punished by this bill? He thought it might, and therefore proposed to amend the bill, by adding the words, "or of any officer or agent thereof."

The yeas and nays were taken upon this question. They were, 61 yeas, and 25 nays.

Mr. Gallatin said he would attempt once more to define this bill, by proposing an amendment which met his ideas, and if it were adopted he would vote in favor of the passage of the bill. It was his object to distinguish between acts of a criminal nature and those which are perfectly innocent; as he did not think a man who should be the means of the raising an embargo by a foreign government, should be punished equally with a man who should procure an embargo to be laid; or a man who procured the restoration of millions of property, with a man who should chuse that property to be condemned; or a man who should be the means of procuring peace to his country, with him who should be the means of involving us in war. He therefore proposed to insert the following words, "in a manner detrimental to the United States."

This amendment was warmly opposed by Messrs. Harper, Pinckney, Sprague, and Bayard; and supported by the mover and Mr. Nicholas; but as the debate on this subject has already occupied much of our room, and as farther discussion took place on the passage of the bill, which we shall have occasion to notice, what was said on this occasion, will not be reported. The amendment was negatived, 54 to 40; and then the bill was ordered to be read a third time to morrow.

Thursday, January 17.

Mr. Hartley presented a number of petitions (copies of each other) from the county of York, signed by upwards of 1800 persons, complaining against several laws passed at the last session. He moved the usual reference, which was agreed to.

Mr. Hana presented petitions from the county of Danphin, in the same words with those from York county, signed by 504 persons; and

Mr. Gallatin presented a petition and remonstrance from Washington county, signed by 1544 persons, of a similar nature with the above, which had also the same reference.

The Speaker laid before the House a communication from the

Comptroller of the Treasury, with certain statements prepared under that officer, respecting the mint.

A message was also received from the President of the United States, inclosing a report from the Director of the Mint, with a state of the coinage of the mint for the last year. Both these communications were ordered to be printed.

On motion of Mr. Harper, the committee of the whole to whom was referred the bill to regulate and fix the compensation of clerks, was discharged from a further consideration of it, and it was recommended to the committee of ways and means, in order to undergo some alterations.

Mr. Pinckney presented a petition from the supervisor of the Revenue of South Carolina praying for an increase of compensation which was referred to the committee of ways and means.

The house again resolved itself into a committee of the whole on the bill to amend the Stamp Act; when Mr. Otis proposed a new section to the bill, providing that every certificate of stock in any bank or insurance company above one hundred and not exceeding four hundred dollars, shall pay the sum of 25 cents, and all above 400 dollars, an additional duty of 5 cents for every 100 dollars, in lieu of the present duty. The motion was negatived, 44 to 27.

The committee then rose, and the house took up the amendments. When that was come to which was yesterday introduced by Mr. Otis, for excluding bonds at or within 60 days from the exception in favor of notes of this description, Mr. Gallatin hoped it would not be agreed to. Mr. Gordon also spoke against it, and Mr. Bayard in its favor. It was negatived, 26 votes only being in its favor.

On the other amendment of Mr. Otis, proposing that defaced stamps should be allowed for, Mr. Waln said if it were agreed to, it would open a door for fraud. One of the principal reasons why notes at or under 60 days, were made to pay a less duty than others was, because a number of stamps used in this way would be necessarily defaced by merchants drawing notes which never would be discounted. Mr. W. had no doubt that in particular instances, individuals might suffer from stamps being accidentally defaced; but he believed if this provision passed, all the 60 day notes not discounted, would be included within it.

M. S. Smith was also opposed to it; and the amendment was negatived without a dissenting voice.

On the amendment to fill the blank allowing a compensation to Supervisors for stamping and selling stamps, with four per cent, a considerable debate took place; it was opposed by Mr. Gallatin, on the ground of its being too much in some cases, and too little in others; and supported by Messrs. Otis, Harper and Pinckney. It was at length carried, the yeas and nays being taken 49 to 40. The bill was then ordered to be engrossed for a third reading to-morrow.

Mr. Josiah Parker, from the committee to whom was referred so much of the President's Speech as related to the Navy Establishment, made a report, in part. This report was long. It takes a view of our present navy, and of the manner in which it has been employed, of the service which it has rendered in defending the commerce of the country; and infers that the benefits which have accrued from it have been greater than to counterbalance all the expence which has attended it. The report concludes with proposing sundry resolutions for carrying into effect the late report of the Secretary of the Navy — The report was committed, and ordered to be printed.

The bill for the punishment of certain crimes therein specified, was read the third time, and upon the question, "Shall this bill pass?" —

Mr. Livingston.—Not having had the advantage of being instructed by the discussion of the resolve which produced the present bill, I endeavored to compensate for that misfortune by the most unremitting attention to the arguments since its recommitment. As those arguments chiefly turned on the general principles of the act, I had hoped to have discovered in them, as well the necessity for the measure as the propriety of the particular remedy proposed. — In both those expectations, sir, I have been disappointed. No necessity has been shewn for the measure. No arguments have evinced the fitness of these provisions to arrest the evil if it should exist. I have always believed, sir, that laws, more especially those of a penal nature, should not be passed without an acknowledged necessity. Every law is a restraint on natural liberty, and every useless restraint is a wanton exercise of power, which a wise legislature will not, and a limited one cannot indulge. Laws of this description ought to be unequivocal in their language; they should operate equally; their penalties should bear a due proportion to the offence, and they should be adequate to the end proposed. These principles are so generally admitted as the basis of all penal legislation, that any attempt to establish their validity might seem presumptuous, or at least useless.

Let us then, examine how far the present measure will bear the test of these rules; and ask first, What is the evil complained of? Where is the necessity for the proposed restraint? Two answers have been attempted to this preliminary and most important question — the one drawn from a supposed state of the politics of Europe, the other from a particular occurrence which had lately happened, as relating to the United States. We are told first, that the state of the world at this eventful period, calls for unusual and energetic measures to repel efforts that are now first made to separate the people from their government; to destroy social order, and overturn the constitutional establishments of mankind. I cannot, sir, see the connection between these fears and the provisions of the bill under consideration, nor how we shall prevent those evils by forbidding

an individual to aid his government in promoting the success of their negotiations ; but in enquiring into a necessity which it is said arises from a general state of things, affecting all nations, but more particularly those who are nearest to the source of this evil.— Let us ask whether any of them have thought a measure like the present essential to their safety ? The posture of affairs in Europe is said imperiously to evince the necessity of adopting the plan which gentlemen have proposed to us. If these things are so, how does it happen that no nation in Europe has yet discovered the necessity for a law like this ? Are they less exposed to danger from this source ? Gentlemen, on the contrary, tell us they are more so from their local position.— Are they then inattentive to their safety ? Surely they must be blind not to see the danger if it is so urgent as is described. How is it, then, that under these circumstances, all the nations of the earth have not fortified themselves by penalties, on this weak, unguarded side ? Why is it that not a single instance can be produced of one people who have deemed this a necessary addition to their code ? And that even in countries where the act might be deemed a breach of prerogative, it is never punished, or considered as a crime, except when the inference is to counteract the views of government—and permit me here to declare, if that were the only object of the present bill, it should not meet with my opposition.

The gentleman from South-Carolina, indeed, endeavors to account for this tacit evidence against his positions, by saying that the case is new ; that domestic treachery, and excitements to insurrection, were never before resorted to as the means of warfare, and that therefore we have no instances to guide us in the history of foreign jurisprudence. Again, Sir, let me repeat that there is no connection between domestic treachery and the crimes created by this bill. The acts which will be punishable after its passage, are such as before were innocent, at least, if not praise-worthy. But if the bill did apply to domestic treason and insurrection, how can the gentleman support the assertion that these are novelties in war. Does not the gentleman's ancient erudition, as well as his modern reading, teach him the reverse ? In what war have not these secret machinations been resorted to, as well as open force ? If, then, no nation, though all more exposed to danger from this source than we are, has guarded itself by a similar provision, the deduction is a fair one, that no nation has either apprehended danger or experienced evil for the want of this addition to their code, and that of course the argument drawn from the general state of Europe not only gives no support to the bill, but as far as example goes, shews us that it is useless or mischievous. But though unnecessary in other countries, it is said to be demanded here by circumstances peculiar to ourselves ; that a transaction has lately happened which evinces the danger of individual interference in national concerns ; and loudly calls for the sanction of a penalty to prevent it in future. In adverting to this particular instance, I am ready to admit the audacity of that interference which, without the aid of a commission or instructions, procured the

release of a number of valuable ships, and the enormity of the crime which effected the discharge of many valuable citizens from a foreign prison ; but while I admit the great injury we have received by such unauthorised and wicked acts, let me caution the house against being led away by the indignation such conduct must naturally inspire. I have always been taught to believe, that laws passed to meet particular cases, and under the influence of passions which are excited by the animosity of party, are generally bad laws ; that they are for the most part cruel and oppressive, and are commonly repealed as soon as passion subsides, and legislation resumes its calmness and dignity.

You are, indeed, told, Sir, that it is impossible to foresee every evil, or imagine every crime, that therefore, in many instances, it is impossible to legislate until the evil occurs, and that then it is a duty to apply the remedy. This reason is perfectly just, when applied to improper acts, which are prevalent, which are injurious in their effects, and which, unless prevented, might frequently again occur ; but it surely cannot apply, as in the present case, to a solitary instance, which had operated beneficially ; but which was not likely to be repeated. The laws, Sir, which different nations have passed, when heated by the passion of the moment, to operate on particular cases, would make us smile at their singularity and folly, if we were not forced to weep at their cruelty and oppression.

I will mention a few instances from the history of a nation with which we are all familiar, and will confine myself to a short period, during the reign of Henry the eighth, a period when acts of this kind were more prevalent than at any other time ; when every new fangled doctrine in religion, every caprice of the monarch became the foundation of a law, and when the parliament did not blush at the title or provisions of an act "to prevent the diversity of opinions." How far, Sir, we have travelled in this road, how far we have attempted already to fetter, if not the indulgence, at least the expression of opinion, those who hear me will judge. That we may proceed no further in this path, let us examine some of their laws made on the spur, as it is called of the occasion, and we shall find a ridicule attached to them which surely will not invite our imitation. In the period to which I have referred, a cook belonging to the bishop of Rochester mixed some poison in one of his dishes, or perhaps dressed it so ill, that the bishop and some of his guests died of an indigestion. The parliament, feelingly alive to every abuse, zealous to punish every crime, began immediately to legislate, and as treason was then as fashionable a term as sedition is here, they with great propriety, attainted the cook of high treason, and, to preserve some kind of relation between the punishment and the offence, they ordered him to be boiled in his own pot. But this was not all. It was not enough to punish any offender. This would have been doing things by halves. They extended the penalties of high treason to every future offence ; and, as if none but one of the same profession could be guilty of the crime, decreed that the same culinary punishment should forever be inflicted.

Whenever a doubt arose in the mind of the monarch relative to

his confession of faith, or the fidelity of his mistress, whenever the good of the kingdom absolutely required that he should change his religion or cut off the head of his queen; whenever any of these cases occurred, the parliament ever ready in their zeal to provide for the important object of the moment, endeavoured to keep pace with the incomprehensible changes of his faith, very *prudently* directed all those to be condemned as *heretics*, who dared to doubt when the king was convicted—and, in the same style of legislation, but with a little variety of manner, ordered them to be nicely roasted. If the improvements had then existed, I have no doubt other statutes would have given us further varieties in the art of cooking for crimes.

Disgusting, sir, and ridiculous as these legislative provisions are, they naturally grow out of the rage for passing laws on particular occasions; and though we may avoid the savage penalties I have quoted, there is no saying how far we may extend the penalties of sedition, or where our definition of misdemeanors will end. I thank God that a constitutional barrier, I hope too strong to be broken, is placed between our powers and the definition of treason; that we cannot make use of it as an engine to employ in the present system of terror. It is not true then, sir, that any general considerations require this law; and if a particular instance has occurred, I think it has been shewn to be improper and even ridiculous to make it the subject of legislation.

If, however, Sir, I had considered this measure as unnecessary only; I do not know that I should have troubled the house with any observations on the subject. I should have said to myself, “the gentlemen who propose this measure have long been the exclusive supporters of government; we have the best authority for believing it, they tell us so themselves; they alone know the diseases of the state; they alone can apply the remedy; and though its utility is not apparent to my enlightened mind, yet, in due time, the wisdom of their measures will unfold itself. I would have said, the gentleman from S. Carolina has dreamed of more plots; he has in his hands the threads of a new conspiracy; his friend from Massachusetts has received another memorial from Paris, let us wait patiently; they have so well satisfied us on the score of their former apprehensions, that we ought to put implicit confidence in their assertions now.” This reasoning, Sir, would have surpassed my opposition if I had viewed in this bill only an useless measure; but it is worse; it is a pernicious one—it is defective in that great and leading characteristic of all good laws—in precision.—A penal law ought to be so clear to the meanest capacity, that no doubt should exist of its construction, that he who runs may read it: and that when about to act, we may know at once by recurring to plain, evident expressions, whether we shall incur a penalty.

Can gentlemen recur to this law, and seriously declare that they have a clear idea of the precise acts upon which it is designed to

to operate? If their enlightened minds comprehend it, can they say that it will not prove a snare to entrap the illiterate and unwary? Or must a man who has never learned to poised his words, to weigh out his sentences in a technical balance, must he always have a lawyer at his elbow to guide, not only his actions, but his most unguarded words, without adverting to the numerous class of words and actions which I might suppose to come within; or on a different construction to be left without, the provisions of this act? Let me only refer to the various opinions we have heard as to its operation on this floor. Many of these, legal opinions of the highest respectability: Scarcely two of them have agreed; and yet it is contended, the law is sufficiently precise. We its framers, after a week's deliberation, with all the advantages our situation affords, cannot determine the meaning of a law, which we yet insist that the people shall understand and obey—this too a law highly penal, and next to treason and felony, the most so in our code.

Not only uncertain; the law is also unequal in its operation; it reduces actions highly criminal in themselves and mischievous in their effects, to a level with others, which, if dangerous, are only so by a very remote tendency, and whose criminality is only created by the bill. This objection has been ably stated, and how, sir, was it answered? By a reference to the power vested in the judge, of fining and imprisoning within the discretionary limits left by the law. It is true, sir, there is that discretion left, and it is that of which I complain. Every wise legislator will leave as little to the interpretation of a judge as possible—he will endeavor to limit discretion by precise rules—and will not give the judge a power of legislating on each particular case. Discretionary power to the extent contended for has this effect. Acts totally dissimilar, are classed together in the same law, and the judge has a discretionary power, of declaring that the penalty intended for the most aggravated crime, shall be inflicted on one whose offence is so slightly separated from innocence, that the line is scarcely discernable. What a field is here opened for partiality, oppression and the indulgence of party rage! Shall I be told that I want a just confidence in our judge? Sir, if we had angels on the bench, I should think it a duty to leave as little as possible to the discretion of those who expound the law.

I have said that laws of this nature are liable to abuse from the spirit of party. Whenever questions of great national importance have long agitated the public mind, every man of the community is insensibly led to take his side, and by degrees he becomes infected, first with the passions, then the prejudices, and at length by the rancorous and intolerant spirit which is commonly inseparable from party. I know of no means by which a judge can totally divest himself from these passions, these prejudices. Man is man wherever he is placed, on the bench or in the Senate. Human nature is the same. Let us, then, suppose such a state of things,

that the object of a party in our government should be, at some future period, to embroil us with a foreign nation, to foster discontents, and prevent explanations which might lead to a reconciliation. Let us suppose the judges to espouse the side of those who wished for war; and that some of the virulence of party had communicated itself to the bench. At this crisis, let a citizen be accused of having infringed the provisions of this law, by an unauthorised interference, which was well meant and produced the most beneficial effects, by removing causes of discontent, and opening the way to a restoration of harmony. By his side stands another culprit who, under the same law, is convicted of a like interference, but with the most injurious intentions and effects; who has created misunderstandings, blown the flame of disaffection, and involving this country in war. Without infringing the law the peace maker may be punished with its highest penalties, while its most gentle restraints may be laid on the more malignant, but better connected offender. Is the law liable to this abuse? If it is, we may without hesitation, pronounce it a bad one.

Whatever may be the merits of the men whom we now respect in office, a blind confidence should not induce us to place powers in their hands which may be abused by them or their successors. In passing general laws, we should shut our eyes to the merits, we should be blind to the faults of those who are to interpret or execute them. As if the framers of this law had determined that it should stand against every general rule of legislation, they have made it not only unnecessary, uncertain and unequal in its operation, but also inadequate to the end proposed. If the practice complained of be an evil, the law should be effectual to punish or prevent its commission. The law does neither. It is a cobweb that may catch a harmless moth, or intercept the useful industry of the bee; but which will not restrain the poisonous hornet, or malignant wasp. If we have any thing to fear from private negotiations, with foreign powers, it is from those citizens who reside abroad, whose connection with their native land is weakened by long absence; who, if they bring evils on their country do not feel their effects; and these are precisely the people upon whom your law cannot operate.

Having thus stated, as far as was possible, without repeating arguments already used, my objections to the bill, I shall vote against its passing into a law.

Mr. Otis said, he was always charmed with the observations of the gentleman from New York. He displayed so great a variety of classical and oratorical allusions, that one could not help being pleased, were it not that the time which is thus occupied is precious. From this consideration, he could have excused the gentleman, if, instead of delivering his speech on this occasion, he had given it to the public through the medium of the Vermont Magazine, where his famous speech on the Sedition bill, delivered at the last session, in similar circumstances, was exhibited under the title of the *Scourge*.

of Aristocracy. But if gentlemen are determined that the question shall not be taken, and that they will spin out the debate, it may be well, said Mr. O. to let them see we are not to be outdone in perseverance, and though the question has been fully discussed, that they must not expect to have the floor to themselves.

The gentleman from New-York begins his remarks by exclaiming, How does it happen that no provision of the kind contemplated by the bill, has been made in any country of Europe, where all the evils of which we complain exist in a high degree? He could tell the gentleman, that while the state of Europe is a state of war, the very conduct proposed to be restrained by this bill, would amount to high treason, and he could refer the gentleman to an instance in which conduct of this kind has been deemed a violation of the laws of nations, and was the cause of involving a country in war. The gentleman from Pennsylvania, in speaking of this subject, has said, that it is perfectly allowable for any individual to sketch a treaty and send it to a foreign country for adoption. This very project was attempted by some individuals in Amsterdam during the late American war. A treaty was conceived there for the United States. It was put into the hands of Mr. Laurens, and taken by the British among his papers. It became the subject of a remonstrance from Great Britain, who required the government to disavow the proceeding and punish the authors, and a war between Great Britain and Holland was the consequence of this transaction. To be sure, said Mr. O. this country had no cause to repent of this effect at the time, as we were glad of an alliance with Holland; but it shews the danger of such a conduct, and the heinous light in which it is viewed in Europe. The gentleman has proceeded to state that the histories of all countries are replete with instances, in which domestic treachery has combined with foreign violence; but, said Mr. O. never before our times was this treachery gravely advocated and justified in a legislative council, and consequently was never so dangerous. This humiliation has been reserved for our own country, and constitutes a material difference between our situation and that of any other country.

Did the gentleman from New-York mean to excite a smile in the house, or to put gentlemen in good humor, when he cited the ridiculous cases of high treason in Henry 8th's time, of boiled cooks and roasted heretics? If this was the object of the gentleman, it seemed to have failed; for he must own it excited no merriment in his mind, nor did he perceive that it had the effect on any other gentleman. If he might make use of a pun on the occasion, he thought any gentleman deserved to be *roasted*, for introducing so absurd a comparison. It was about as much in point as the comparison of the gentleman from Pennsylvania, when he likened the petition of an individual to a foreign government for peace, to petitions presented to Congress by the citizens of the United States. He

must own he was surprised to hear sentiments from any quarter which place the Executive Directory on a footing with our government.

The gentleman goes on, and, with most devout ejaculation, thanks God that the constitution has fixed an effectual barrier with respect to crimes of treason. Did he not know the character and patriotism of that gentleman, he should be inclined to think his fervor was produced by interested motives. As to the arguments (and he was willing to allow that something like argument was introduced at the close of his speech) made use of by the gentleman from New-York, they had been repeated and refuted too often already to require any further observations from him.

Mr. O. said, that having been called up, he would now say a word relative to a certain memorial which had been read by the gentleman from S. Carolina (Mr. Harper) and to which it had been said, he (Mr. Otis) alluded in certain observations which he had made prior to that time. Mr. O. said he was perfectly willing to confess all he knew respecting that instrument. The fact was this. A memorial was brought from Paris, by a gentleman by no means inimical to the supposed author of it, and by him to be delivered to an individual of this country, as a copy of the identical paper presented by a certain gentleman then in Paris to the Directory. Mr. O. said he had only once given it a cursory perusal, but as it appeared to him to be the mere gloss and varnish of the real design of the mission, as the evidence of its being presented might not be equally satisfactory to others, and as the scope of his argument was intended to shew the probable course which such a missionary would adopt, and the abuses to which a country might be exposed, it was quite as pertinent to the purpose of that argument, to suppose a case that might happen, as to reason upon a direct assertion of a fact not material. With respect to the fact of presenting the memorial, it was of no consequence, except as to the manner in which it had been introduced by the gentleman from S. Carolina, and the imputation of a contrivance to bring public odium upon an individual. But such an imputation vanishes when the friends of the person alluded to are loud in their praises of the contents of the memorial, and when it appears from that gentleman's own confession, that he saw the memorial and did not disapprove of it.

Further, said Mr. O. it seems very strange, that Mr. Codman or any other gentleman should draft this memorial without the consent or authority of the gentleman who was to present it. This is scarcely a supposeable case, though certain reasons not explained, might operate with him against presenting it after it was written. He left gentlemen, however, to take their choice either to say, he did or did not present the memorial. In the one case he had done an act, which the friends to this bill considered as highly improper, and in the other case he refused to do an act which his friends con-

sidered as meritorious, and we then knew not what line of conduct he pursued, "shadows, clouds, and darkness rest upon it."

When, however, said Mr. O. this memorial is compared with the letter which this same gentleman has published in the papers, giving an account of the object of his voyage to France, there will be found a striking resemblance between them. Mr. O. proceeded to read several passages from each and to compare them together in order to shew that both papers contained the same sentiments. The outside dress of the memorial, he allowed, had a little more of tinsel and shew, than the letter; it is more *a la mode de Paris*; but the difference is owing to the different qualities of the atmosphere in Paris and the Northern Liberties. At Paris, a man imperceptibly adopts the stile and language of democracy, whatever may have been his habits before he goes thither. The grave philosophical Republican assumes the garb of the Petit Maitre. "The Quaker fly, the Presbyterian sour," is transformed into "a smart free thinker, all things in an hour." But if any difference exists between the letter and memorial, it is not in favor of the former. In the letter the writer observes that his visits to Citizen Merlin, were those of a private friend in his own family. Who, said Mr. O. is Citizen Merlin? By recurring to the former dispatches, it will be found he was suspected of being concerned in the privateers employed in plundering our commerce and had written a treatise to justify these piracies. Yet this was the gentleman's private friend with whom he dined and supped, and was upon the most intimate footing. After publishing this fact himself, it surprised him that either he or his friends should take pains to prove that he did not write or present the memorial in question; an act in his opinion of a more innocent and much less suspicious nature than the private visits mentioned in his letter, extracts from which he had read.

Mr. O. referred to another passage in the letter, wherein it is said, the writer, "had an interview with influential characters." Why this vague and mysterious mode of expression? Why could not the gentleman have said that this interview was with three members of the Directory? That he had such interviews is a fact well known. Mr. O. also referred to that passage in the letter which states that the writer was desirous of being the bearer of the information to his country of the passing of a certain airtette, from a belief that it would be agreeable information to his countrymen, and evidence of the friendship of the Directory. What said Mr. O. was this act of the French government, which seems to have made so deep an impression upon this gentleman's mind? The raising of an embargo which they had no right to impose; and the liberation of our seamen which they had wrongfully confined. This, said Mr. O. is a species of friendship much upon the same footing with that of a highwayman, who having robbed a man of his watch and money afterwards restores the watch. He should not be easily tempted to hold any intercourse with such a man, or to consider him as a friend.

With respect to the gentleman at Paris, with whom it had been

said he corresponded; he had always felt, and manifested a due attachment to his country. He has said Mr. O. been one of those few Americans in Paris, who have dissented from the acts and intrigues of a junta of his countrymen there, who have shewn themselves on all occasions friendly to the views of the French, and whose conduct has been a source of infinite mischief to the United States. If this gentleman had been concerned at all in this business, he must attribute it to that kind of influenza from which it seems almost impossible for any person who visits Paris to escape. If he did write the memorial, he must have done it with a view of presenting the gentleman's own sentiments, expressed in such a manner as would be likely to meet his approbation, and from an apprehension that if the gentleman had been left to himself, he would have presented something worse. He acknowledged it was not right that his friend should have interfered at all in the transaction, and he must be allowed to express his doubts whether he had done so or not; but if he was the draftsmen he imitated the example of men in high stations; with whom it is no uncommon thing to dress up memorials which do not contain their own sentiments. It was well known that the late Secretary of State had drawn memorials to the French and British Ministers, containing opinions which no one ever believed he possessed.

Mr. Dennis said, He should not undertake to follow the gentleman from New-York, (Mr. Livingston) through his retrospect of the reign of Henry the 8th, nor enquire with what propriety he had attempted to assimilate the mild penal code of the United States to the sanguinary punishments of that monarch—nor would he follow him in his petty objections to the petty details of the bill; for he had long since perceived, that the object of some gentlemen, from the recent arguments on this subject was, first to create a conviction in the public mind that they were desirous to do something in this business, but what it is, neither themselves nor any other person can divine, and secondly to seduce the attention of the house from the subject, whilst they were endeavoring to bewilder their understanding in a mist of amendments. To bring back the attention of the house from these devious paths into which gentlemen had endeavored to seduce it, was the object which he had in view.

The gentleman from New-York, (Mr. Livingston) had stated that the policy of the bill had been supported upon the two following grounds, viz. of its analogy to a recent transaction, and secondly of the peculiar characteristic policy by which the government of France has been distinguished, he should not take time to enquire what peculiar relationship the bill had to that transaction; but he was disposed to think that had not functions been attempted, we should not have thought of the necessity of legislating on this subject. But the second part of his argument with respect to the necessity of countering the policy of France, deserved more consideration; out of this policy the bill had grown.

Whatever difference of opinion may heretofore have existed, with respect to the views of France, all seemed now to agree her ultimate

object is universal dominion. This they have attempted at different times by different means—formerly they made war as enemies, and attacked their foes in the open plain; they now make war as friends and allies, and endeavor to subjugate nations through themselves, by exciting divisions and sowing the seeds of discontent. They formerly sought no less for military fame, than political domination, but in no recent instance have they declared war, and always attack by wiles and stratagems. It has been remarked, that it is not France making war upon and conquering the world, but a great sectary which has risen up in France, and which having subverted all the principles of social order, has ruined their own country—this sectary is composed of atheistical philosophers, fanatical politicians, political metaphysicians, and blood-thirsty jacobins. These form in Paris a mother club, a common stock, which shoots its ramifications into every country of the world. The subaltern sectaries or affiliations are all actuated by one common principle, and in order to enable the mother club so to play her cards as to support her subordinate affiliations, it is necessary to keep up a constant correspondence, and by keeping it up, are the liberties of nations subverted and destroyed; and by cutting off all communication between the Executive Directory and the friends of liberty, upon whom they so much calculate, shall we mar and counteract their projects.

This is the new and peculiar system of policy from which, more than any other source, is danger to be apprehended. Why, then, does the gentleman from New York, (Mr. Livingston) the gentleman from Pennsylvania, (Mr. Gallatin) and the gentleman from Georgia, (Mr. Baldwin) all of them complain, that this bill embraces a principle unknown to the codes of nations? It would seem to be a sufficient answer to say, that no nation since the Romans have sought for universal dominion, in the name of friends and allies. But is it for these gentlemen now to be told, that the means of defence must always be adjusted to the means of attack, and that before a nation undertakes a system of defence, she must first ascertain her enemies means and system of annoyance? It is in this the great art of defence consists, and when you shall have explored the resources of your enemy, and discovered the point at which you are to be attacked, you are half secure.

Frequently, said Mr. D. have gentlemen told of the means by which the liberties of some of the fairest portions of Europe have been destroyed, and by which they have been involved in one common mass of plunder and destruction. But it is in vain that we warn gentlemen, to learn wisdom from the misfortunes of others, it is in vain that bounteous nature has interposed an extensive ocean between the wild and ambitious projects of this nation and our happy country, if when we have seen the gathering of the storm, and its fury bursting upon and destroying others, we are determined to take no means to avert it from ourselves. When we have remonstrated on these subjects, the uniform and only answer we have received, has been that the governments which have been subverted were ancient tyrannies, that they oppress their people, and therefore the French

were right to aid their people to break the shackles by which they were confined, and that it was advancing the rights of man. This is the only answer we have received, and we daily hear prayers set up for the success of the French in the invasion of Ireland, in order that this benevolent and disinterested nation may rescue the friends of liberty from the yoke of British dominion, and restore them to liberty and equality. And who are these friends of liberty? From late accounts, said Mr. D. I should call them an organized banditti, robbers, and assassins, who like beasts of prey, when all creation is at rest, make from their fastnesses, nocturnal excursions and plunder and destroy all who are opposed to their nefarious projects.

Thus it is, we see gentlemen recognize the right of foreign interference, and only qualify it by the nature and motive for such interference. If a nation, according to the ideas of some gentlemen, is groaning under an aristocratic, monarchic, or oligarchic government, it is a good thing, and for the interest and happiness of the world, that France should interpose to put them to rights. Thus too we see, such is the benevolence, the philanthropy of this nation, manifested in these cases, that the limits of Europe are too narrow for the exercise thereof, and she has penetrated into the barbarous regions of Egypt and Arabia, to relieve the friends of liberty, from the yoke of the Beys and Mamelukes; and who knows but it may be thought a good thing, that these benevolent people should visit the shores of America, to rescue the friends of liberty, the republicans, from the vassalage of the Beys and Mamelukes of the United States. That it may be desirable to check the progress of British influence, the rapid strides of the federal government to a consolidation of all the state sovereignties, as has been said was our object into one limited absolute monarchy; for preventing the British army from keeping up a system of alarm, in order to induce the people to believe standing armies are blessings, that the gag law is a blessing (for so has the gentleman from Pennsylvania, Mr. Gallatin, said) in order to chastise the American legislature and the President, for daring to make a law, by which they have declared to European convicts, to foreign renegadoes, that the territory of the United States belongs to the citizens thereof, and not to them; for some, or all of these things, it perhaps might be desirable that these great and disinterested people might visit us.

True it is, the gentleman from Pennsylvania has said, that altho' he and his political friends are extremely desirous to change our system of administration, yet that nobody (he is surprized we should think otherwise) has any design or wish to change it in any other way than through the medium of elections: But is there any body upon this floor ready to subscribe to this declaration of that gentleman? Has that gentleman seen a number of addresses to the executive of different states, and some to the President, in which the addressers declare they have arms in their hands and are ready to yield their lives and their fortunes to check domestic usurpation? Has he seen certain resolutions in which every important measure of this government is denounced, and in which it is resolved that cer-

tain acts of the government shall be openly resisted, if attempted to be executed? Has he seen a writer under the signature of *Curtius*, with whose performance gentlemen appear to be highly pleased and whom they have dignified with the appellation of *Junius*; and has he seen this writer telling the people of Virginia, that the Executive of France is not their greatest enemy; that the government of the United States is a greater enemy; that they are in the last stage of political oppression; and that the just vengeance of an insulted people is as terrible as the wrath of heaven? And has the gentleman from Pennsylvania heard the gentleman from New-York (Mr. Livingston) at the last session, most fervently praying the people and states might rise up in open rebellion against the Alien bill; has he heard and seen all these things and many more of a similar complexion, and will he still declare, that no person wishes to change our administration but by elections? Mr. Dennis said, this was not his opinion, on the contrary, he believed the maxim with many was, that the administration must be changed, and that if it could not be done through the ordinary channels, it must be done otherwise, but at all events it must be done.

But admitting the object of all the clamor and falsehoods disseminated through the union, to be for changing the administration by election, and that this is exclusively the object for attaining which gentlemen upon this floor had talked so much about executive patronage, &c. Have we any security that the opposition which may be excited will be confined to this object? When they shall have alienated the minds of the people from the government, when they shall sow the seeds of division and excite discontents, can they control them and direct them at their will? Can they put this vast machine in motion, and stop it with a touch of the finger? Can they raise a factious temper, to obtain a particular end, and secure us against a perversion of it to other uses? No. I find no security against it, either from the examples of other nations, or from these gentlemen's intentions, however good they may possibly be. The patriots of Berne at first complained only of some grievances in their existing constitution; but the government offered to call a convention, and took measures to do it, to alter the government, and to remove all well-founded complaints. It was indignantly rejected by those who were determined on nothing less than the subversion of their system, by the introduction of a foreign force. That force was introduced, and the government subverted. At Geneva, the opposition and clamor against the government first commenced with a handful of aliens and the descendants of aliens, and their only complaint was, that they were excluded from a seat in the assembly of the people. But the citizens of Geneva offered to give them this right, and they scornfully rejected as a favor, that which they said belonged to them as a right. They were satisfied with nothing short of an entire revolution, and a system of pillage and plunder. Many well disposed persons were seduced into the clamor they raised against the existing state of things, who were afterwards very desirous to suppress it, but who fell victims to the very storm which they

helped to raise. Thus we see, however virtuous may be some gentleman's motives, when sedition once breaks loose, and a spirit of revolution gets afloat, it is not in the power of human foresight to calculate the event. And in my opinion, to excite these discontented is not part of the policy of France and her designs upon us. Gentlemen complain laid Mr. D. of ungenerous suspicions, and that one object of this bill is to excite and keep up suspicions against them, and their party. I can give these gentlemen a recipe against suspicions. If these gentlemen will cordially co-operate in all those measures necessary to defend us against the aims and the secret machinations of France, they will cease to be suspected. And until then they will continue, I will not say with what propriety, to be suspected. But whilst they complain of these ungenerous suspicions, we are charged with keeping up a system of alarm to cheat the people out of their rights, to raise standing armies, to restrain the freedom of speech and the press; to do away trial by jury; to prostrate all the barriers which separate freedom from the dominions of despotism, by consolidating legislative, executive and judicial power. If we have kept up a system of alarm for the accomplishment of these purposes, it seems as if these gentlemen ought to be the last to complain of it. Have not these gentlemen, from the beginning of the government to this moment, kept up a constant alarm? Have they not continually warned the people against the danger of funding systems, banks, the excise, executive patronage, &c. Have they not by all possible expedients, endeavored to operate upon the apprehensions of the people? It is with a bad grace that these gentlemen now complain of this system of alarm.

But is there no ground for alarm? There is no ground for fear; neither am I affrighted, but it becomes us to look around us, to survey the ground upon which we stand, and guard every avenue to the approaches of our enemies. When I see the cold and philosophic complacency with which some gentlemen behold, and have for a long time beheld the insolent aggressions of a foreign power: when I have seen for years past, our commerce plundered and citizens imprisoned, thumb-screwed and starved, and compelled to enter on board of foreign privateers to plunder their own countrymen, our vessels embargoed, and the property of our citizens taken into the ports of France by order of the government, and the indignities offered to our ministers; when I have seen these things, and that they have not disturbed the equanimity of some gentlemen, who are all alive to the suppressed aggressions of our government; when I see those who are crying out peace, peace, with regard to France, taking every means to stimulate domestic discontent, already bordering on open insurrection; there is to me some ground for alarm.

Again, those gentlemen who have heretofore preached day after day about the mischievous effects of foreign influence; who were restraining the Executive from exercising its constitutional powers, in sending Ministers abroad, left these Ministers should be entrapped by the diplomatic agents of corrupt politicians; these gentlemen are now for giving the utmost latitude to the exercise of this power to

every officious individual. This is to me a ground of alarm; because it seems as if it were some gentlemen's maxim, that power is best trusted where there is no responsibility; whereas to me it appears that power without responsibility, is the essence of tyranny. But the gentleman from Pennsylvania (Mr. Gallatin) has informed us, that the people of the United States are too contented and happy in the enjoyment of peace and liberty, to be excited to disorder and insurrection. I believe they are difficult to be excited to rebellion; but our past experience warns us it is not impossible. How was the western expedition executed! Was the excise the ostensible ground of that insurrection? Is that law repealed? Were they more taxed, or any more oppressed than at present, and was it possible then, and why is it possible now, to raise insurrection? But does it comport with the usual doctrines of these gentlemen, to say the people are free from oppression, contented and happy, who have so often told us of the tyranny of our government, who have so frequently declared that we have been imitating the British government in her system of terror and of punishment? No, Sir, we cannot permit it to these gentlemen to say, for one purpose, the people are free and happy, and for another they are despised, degraded, and oppressed.—They may say which they please, but they cannot be permitted to say both.

After all, what are the particular objections to the bill? One gentleman says it will check the ardor of individual enterprise; some say it is indefinite, and that there is no notice of those upon some of whom it may operate; but the great argument seems to be, that although the power of conducting our exterior relations is vested in the President, yet each individual has reserved a right to himself of intermeddling in those concerns, for the purpose of keeping peace, and it would be wrong to pass this bill, because it prevents certain pacific persons from indulging their favorite disposition of making peace. This can only be asserted upon the principle that our government has neglected something which may be done by an individual, and which was essential to peace. Are the gentlemen prepared to shew this, and that there is now a prospect of peace, but that the government refuses to embrace the opportunity? Have they any new project which they wish to be attempted, but which the government has refused to accept? Are they prepared with another project for sending over to France another ship load of envoys to be insulted and scornfully rejected? I cannot believe they are, and I cannot see for what purpose it is that this right of negotiation is to be retained to individuals. Is it supposed that individuals may influence that government by addressing their justice? Already has it been addressed, and they have told us that justice, like religion, was out of fashion in France. They only enquired what was their power, and not what was justice. It is that some individual may paint the enormity of their depredations? I thought my

colleague (Mr. S. Smith) intimated something like this: But the greater part of our grievances have originated in their own decrees, embargoes, &c. and I have seen a communication from the Commissioners at St. Domingo in '96, in which is fully stated the depredations of their agents and their privateers, and our Commissioners most eloquently disclosed to them, that similar instances of piratical outrages to those committed on our defenseless merchantmen are unparalleled in the annals of nations. Is it for the purpose of addressing their interest? Already has it been demonstrated that all those violations of neutral rights which they have committed, to injure their enemy, is now bringing ruin upon themselves. But this bill is complained of as operating hardly on those individuals who may find it necessary to apply for a restoration of captured property, releases of seamen, &c.

It appeared, however, to him that this objection was done away by the proviso of the gentleman from Massachusetts. If it was not, he was glad of it, for all commercial intercourse being suspended, he could see no necessity for these individual applications. If a vessel were captured, or seamen imprisoned, it would be a general thing, and there was no reason upon which to expect a relaxation in any particular case, except it be upon the principle of favoritism. I believe, said Mr. Dennis, if a man was to apply who was a good democrat, and who had certificates to shew from the friends of liberty in America, that he had been uniformly attached to the French government, accompanied and justified it in all its measures relating to his own country, whilst he criminated his own government in every thing respecting them; if he could shew that he had one hundred times cursed the British treaty, and voted for resolutions to condemn before he had read it, and if he would promise to become in future a faithful servant to her interests, he might then get his property restored and his seamen released. But when the question is between these persons and the public safety, he did not hesitate a moment how to decide. He therefore would not only prevent political correspondence, but all correspondence in the present state of things, and this was the only way to cut off criminal correspondence. Mr. D. said, he would do more, he would recall our citizens from France, under penalty of disfranchisement, and prohibit our citizens from going to France. [The Speaker said Mr. Dennis could not now be permitted to disclose any thing which he wished to be done beyond what was in the bill,] Mr. Dennis said he had arrived at the close of his observations, and he would only add, that he believed there were many persons in the country who would join in any system of foreign or domestic combination, to subvert the government; that although this bill did not fully meet his ideas, as far as it went it would produce good, and narrow the present latitude of unofficial correspondence with a government from which we had much to fear, and therefore he was in favor of its passage.

Mr. T. Claiborne said, he was not in the house when the resolu-

lution on which this bill was founded first made its appearance; but soon after his arrival the bill was reported. Not knowing what had given rise to the bill, he felt inclined to vote for it, being desirous to prevent any usurpation of executive power, after it should have undergone certain amendments. He had attended to the arguments for and against it, without suspecting any thorn under the rose; for he was not accustomed to suspect gentlemen of impure motives; nor did he suspect any thing wrong in this business, until he saw a certain memorial introduced and mangled by the gentleman from South Carolina; he then clearly perceived, that the object of gentlemen was to depress the republican spirit in this country, which they call a French or a jacobin spirit. What, exclaimed Mr. C. is the period arrived, when it is criminal to be a republican? He trusted no American was yet ashamed of being considered a republican. It is cruel, said he thus to treat Virginians, who pride themselves in being republicans. He believed this to be a law for the punishment of republicans, by leaving so wide a discretion in the courts. The gentleman from Maryland had chosen to brand the Virginians, through the sides of Curtius (a youth of 25 years of age) with being enemies to the federal government, and as being ready to upset it. Mr. C. said he belonged to no party; indeed the gentlemen with whom he generally voted did not act upon any system, as it appeared other gentlemen did; for he recollects on a late occasion when a gentleman who usually voted with them expressed his intention of voting differently, the gentleman from Massachusetts (Mr. Otis) did all but weep over the member who thus fell out of the ranks. He should be sorry to find the business of this house so conducted, as to have the votes upon all important questions ascertained before the measure was proposed: he wished himself, and he hoped every other gentleman would wish, to be perfectly independent in his movements.

Mr. Harper did not rise with a view of entering into a discussion of this subject, nor of repeating arguments which had been used for seven days together. But he deemed himself called upon to make an explanation on a matter in which he was personally interested.

It had been said, that the paper which he had introduced as a part of his observations on this subject, was not delivered or written by the gentleman to whom he alluded. He knew not whether these two facts are true, or not. The gentleman has denied having either written or presented the memorial, and he is entitled to the full credit which such a denial would give him. Those who shall read this paper, and compare it with this gentleman's letter, will determine for themselves on this point.

Whether this memorial was delivered by Mr. Codman or Dr. Logan, he left the public to judge, he was himself convinced from the thing itself, that it was the genuine production of the latter; if not it evidently spoke his sentiments; he knew he had repeated the same sentiments to various persons in this city. But it was a man-

ter of no consequence whether the memorial was delivered or not ; as it served to shew how the most mischievous designs might be covered under a plausible garb. He was therefore justified in the introduction of it. He did not state, at the time, that it was the production of the missionary ; but he then and now believed it to be so. Mr. H. concluded by some remarks upon the principle of the bill.

Mr. Allen thought it time this debate was brought to a close ; he believed this was the 8th day which it had occupied. If this course was to be pursued, it would be possible for two or three members to prevent any of the important business of the session being accomplished. He thought by thus acting they were serving their constituents unfaithfully, and if they continued thus to act, the people in the gallery ought to drive them from their seats. Day after day the same persons rise in the debate, and frequently so late as to prevent any answer being given to their observations. It was sufficiently evident from the votes which had been taken, that there is a large majority in the house in favor of this bill, he hoped therefore that the question might be taken. The lengthy debates on this subject were not meant, he said to have effect in this house, but out of doors, and to prevent the important business of the session from being done. — This session he said was half gone, and no one law had been passed. He hoped his friends would forbear to mention the debate, as it would be only casting pearls before swine.

Mr. M'Dowell was well aware that the house was generally desirous of the question ; he would not however occupy many minutes in stating his reasons for voting against this bill. The leading object of it is stated to be to prevent an interference of individuals in our foreign relations. In support of this bill, he expected therefore, that it would have been shewn that some individuals had already usurped this authority. No such thing had been shewn. Is the situation of the country at present, more alarming than it has been at any former period, or more so than that of any other country ? He believed not, and yet no law of this kind was ever passed before.

Is it not surprising, said Mr. M'D. that though gentlemen have such faithful correspondents in France, who communicate to them all that passes there, that they should not have been able to ascertain the fact that the memorial which had been introduced to the house as presented to the French minister was really presented ? They could not do this, because it never was presented ; but gentlemen are continually aiming at something or other to alarm the public mind and to induce members in this house to vote for measures, under the impression of fictitious alarms, rather than of sober reason. They wished it to appear that Dr. Logan was the missionary of a party in this country, and to establish this fact, they seem willing to go all lengths. Falsehood would, however, always recoil upon its author. For his part he saw no offence which had been committed by Dr. Logan ; but the contrary ; and he could never consent to punish a man for endeavoring to promote his country's good, tho' he should

be glad to punish all who endeavored to injure it, by involving the country in war. He had always thought the intention with which an act was done, constituted its crime or innocence. Mr. M'D. condemned the latitude allowed to the courts; and after a few other observations, concluded by saying that the gentleman from Maryland, instead of being angry with the gentleman from New-York, for opposing this bill, ought to have thanked him, since it afforded him an opportunity of making his speech about his *mother club*.

Y E A S.

Messrs. Allen, Baer, Bartlett, Bayard, Brace, Brooks, Bullock, Champlin, Chapman, Cochran, Craik, Dana, Davis, Dennis, Dent, Edmond, Evans, A. Foster, D. Foster, J. Freeman, N. Freeman, Glen, Goodrich, Gordon, Griswold, Grove, Harper, Hindman, Hofmer, Imlay, Kittera, Lyman, Machir, Mathews, Morgan, Morris, Otis, I. Parker, J. Parker, Pinckney, Reed, Rutledge, Schueman, Sewall, Shepard, Sinnickson, N. Smith, S. Smith, Spaight, Sprague, Thatcher, Thomas, Thompson, Tillinghast, Van Alen, Wadsworth, Waln, J. Williams. 58.

NAYS.

Messrs. Baldwin, Bard, Blount, Brent, Brown, T. Claiborne, W. Claiborne, Clay, Clopton, Dawson, Eggleston, Elmendorf, Findley, Gallatin, Gillespie, Gregg, Hanna, Harrison, Havens, Heister, Holmes, Jones, Livingston, Locke, Macon, M'Clenachan, M'Dowell, New, Nicholas, Skinner, W. Smith, Sprigg, Stanford, A. Trigg, Varnum, Venable. 36.

Friday, January 18.

Mr. Bard presented a petition from the county of Alleghany, &c. praying for a new post road. Referred to the committee on this subject.

Mr. Wadsworth presented a petition from the inhabitants of the district of Maine, being owners and masters of vessels, praying for the erection of a monument on Barn-Island, which was referred to the secretary of the treasury.

Mr. Rutledge said, he wished to lay a resolution upon the table, the object of which was to prevent the future protraction of debate, as he thought it very improper to consume so much time in debating every question which comes before the house. He was persuaded he could never offer a resolution of this kind with greater chance of success than at present, when one half of the session has passed over without any important measure having been adopted. The resolution was to the following effect:

Resolved, That during the remainder of the session, it shall be the standing rule and order of this house, that during the debate on any bill or resolution, no motion of adjournment shall be received by the chair, either in the committee of the whole, or in the house, except by unanimous consent. Ordered to lie.

The amendments of the senate to the bill for making an enume-

ration of the inhabitants of the U. States, were taken up, the principal of these amendments is a postponement of the enumeration until the 1st of April, 1800, which would be extending it over another election.—On motion of Mr. Nicholas, the amendments were committed to a committee of the whole.

Mr. Baldwin called for the consideration of the report on the representation and remonstrance of the legislature of Georgia.

Mr. N. Smith hoped this motion would not be persisted in, as there was a fact relative to this business very doubtful, which he had not yet been able to ascertain. He hoped the report would be permitted to lie at least a few days.

Mr. Otis hoped this report would not be taken up for another reason. There was a bill for further suspending the commercial intercourse between the United States and France, which is the order of the day. He had already twice attempted to call up this bill, when it had been objected to, because the communications which had been promised by the President, respecting our dispute with France, had not been received. He had given way on this account, not because he thought the objection had any weight, but because it had been made; and it was uncertain whether these communications would be received to-day or to-morrow, or Monday; as the present law would expire on the 3d of March, he wished it now to be taken up, because if it was not soon acted upon, there would not be time to give the necessary notice to the distant parts of the Union. From the speech of the President at the opening of the session, gentlemen might be convinced there would be nothing in the promised communications which could have any effect on this bill, and from the present precarious situation of several vessels, and the early expiration of the present law, he hoped the subject would now be taken up.

Mr. Baldwin withdrew his motion, to give the gentleman from Connecticut the time he required.

Mr. Otis then called up the bill he had mentioned.

Mr. Nicholas was surprised the gentleman from Massachusetts should persist in calling up this bill. When the gentleman from Pennsylvania called for his resolution requesting the President to send the dispatches, it was said they would be here next day; but they are not yet come. He tells the house it is altogether unnecessary to have the dispatches, because the President's assurances were sufficient to assure gentlemen, they would make no change in our circumstances, and that therefore we may as well do without them. He did not understand the footing upon which he stood, if this doctrine was to be admitted. If the President's opinion were to be acted upon, for the foundation of a law, why not leave him to make the law also? Mr. N. said, much had been said about delay. It was extraordinary, that charges of this kind should be brought against this house, whilst the Executive has not yet communicated dispatches promised six weeks ago. This, said he, is almost

all the business before the house, and it is owing to the want of this communication, that so much time had been spent on other subjects. Mr. N. said there was a very important new principle in this bill, which these dispatches perhaps might throw some light upon. If this motion was persisted in, he should consider it as taking away legislative discretion, and as tending to make the government wholly Executive.

Mr. D. Foster hoped his colleague would not press his motion. It had been observed that it had been said the dispatches alluded to would be laid before the house yesterday. It was so stated, but he found they were not ready. He had been again to the office of the secretary of state, and had been informed they would be here to day.

Mr. Harper could give another reason why the communication was not made, if in doing it he should not run the risk of being called an unofficial agent, and classed on the ground with X. Y. and Z. He believed it had not been owing wholly to the length of the dispatches, and the time necessary to copy them that they had not before now been laid before the house; but from the time which had been found necessary to prepare a report of the secretary of state, with which it was thought necessary to accompany the dispatches, and from completing which he had been prevented by the variety of business which had engaged his attention. As soon as this is completed, the dispatches will be communicated.

Mr. Sewall said, his colleague (Mr. Foster) seemed to admit the connection between this bill and the dispatches in question. The main object of this bill, Mr. S. said, was the continuing in force the former act, the propriety of which no one could doubt, since the last predations of the French are continued, and no dependence could be placed upon their professions.

Mr. Nicholas was afraid the members of that house do not all stand on equal ground; since some gentlemen seem to be perfectly acquainted with the contents of the dispatches, whilst others are perfectly ignorant with respect to them. Mr. N. denied that the continuance in force of the former act was the principal thing contained in the bill in question. But it seems, said Mr. N. that the dispatches are kept back, to give time to the secretary of state to accompany them with a long report. Since the secretary of state has thought it necessary to analyze these dispatches before they are laid before the Legislature, he trusted there would be something worth waiting for, and therefore hoped the bill in question would not be taken up.

Mr. Macon spoke of the unreasonableness of pressing this motion, under the circumstances which had been mentioned.

Mr. Rutledge urged the propriety of taking up the subject on account of the shortness of time betwixt this and the expiration of the present law, that it might require nearly a month to send information of the decision of the Legislature to Savannah; and if this

information was not received, great quantities of provision might be sent from thence to the West-Indies. He said, he knew no more of the dispatches than other gentlemen; but he had seen Mr. Gerry's letter which has been published, and therefore knew the result.

Mr. T. Claiborne did not wish to depend upon news-paper reports, but upon information from the executive.

Mr. Livingston said, if the bill called for was no more than a renewal of the act for suspending the commercial intercourse between France and the United States, there might be some weight in the reasons given for going into its consideration; but if gentlemen look into the bill, they will see far different provisions. There is a clause enabling the President, whenever he shall think fit, to renew the intercourse with such rebel subjects as shall have cast off their allegiance to their mother country. This important principle was not in the former law—perhaps occurrences have recently happened, that may have made it necessary.

In the course of a late debate, Mr. L. said, gentlemen had thought proper to foretel certain events which might possibly happen. He would, on this occasion, follow the same course, by speaking hypothetically. Suppose, said he, an agent shall have arrived in this city from the Governor of a certain foreign island; suppose that agent should have been the bearer of certain proposals, in order to produce an alliance, either commercial or political, with the United States: suppose he should have been introduced to the President, and have laid these proposals before him: suppose this agent had also laid these proposals before certain members of the legislature; ought not this house to be equally well informed with such gentlemen on this subject, before they are called upon to act? He had stated this matter hypothetically, because he possessed no evidence of these facts which he could lay before the house; but he thought the presumptive evidence strong. We have, said he, seen the arrival of this agent announced in the papers; and we have seen a bill brought in to meet the very case. He thought this furnished presumptive evidence that the President may possess information on the subject which this house ought to have, before it is called upon to legislate, and they cannot be justly charged with any evils which may be produced by the delay.

But it is said the dispatches alluded to will not be laid before the house, until the Secretary of State can accompany them with his report. The executive seems determined that the legislature shall not receive the poison, without an antidote. Mr. L. said, he felt his indignation a little roused at this kind of treatment. Heretofore, said he, dispatches of the greatest consequence have been sent to the house, without any explanatory report from the Secretary of State. Such a conduct, said he, excites suspicion that all is not right. As to what had been said about these dispatches being unnecessary, he supposed the President had thought differently when he promised them to the house; and having promised them, he thought it was high time they were sent.

Mr. Otis said, whatever indignation the gentleman from New-

York might feel towards the Secretary of State (Mr. Livingston said he did not feel, nor did he say he felt any) he would feel none towards him for having made this motion, since it had given him an opportunity of expressing his suspicions with respect to the conduct of the Executive. Mr. O. said he had been induced to make this motion for two reasons, viz. because he thought all the information necessary now before the house, and because several of his friends had expressed a desire that he should do so. The suspension of our intercourse, said Mr. O. was founded upon the depredations which the French committed upon our trade, and since those depredations are continued, it is necessary to continue the law.

Mr. Otis was here interrupted by a message from the President of the United States, communicating the Dispatches which had given rise to this conversation. [See page 128.] The reading of these papers occupied the remainder of the sitting.

The President informed the house, in his message, that a report from the Secretary of State on the subject of these dispatches, would be communicated to both houses, on Monday.

The house adjourned till Monday.

Monday, January 21.

Mr. Rutledge impressed the necessity of his resolution upon the House; if they considered the session was more than half gone, and only one public bill passed; if gentlemen took a view of the continued hostile appearance of France, and of the consequent necessity of attending to the recommendation of the naval committee, to increase that establishment; the new modelling the army, and the establishment of an hospital, these considerations would shew the necessity of quickening the march of their proceedings.

Mr. M'Dowell saw no force in the observations of the gentleman—he has said they should quicken their march, but did he wish to prevent discussion? he hoped not. Some observations had, in time past been made on spending time to no purpose, but he thought to day they had an instance of this kind, after being so anxious for the dispatch of business, that they should sit so long to hear the speculative opinions of the secretary of state, read, relating to measures passed.

Mr. Nicholas said there had been many attempts of this kind made without success, and he believed if this was considered, it would bear the same fate, however ardently the House may desire to take more time to consider of a subject, they were tied down by this resolution. The gentleman, he believed, prided himself in being on the majority, but should he prevent any information that would be requisite on a bill? Could he not trust that majority to decide for the occasion. The effect of this resolution would be to turn day into night: they must debate all night and sleep during the day: this was the case with the parliament of England. He conceived this was not done for a majority to say they would take the question, so much as to put it into the power of an individual member to say the house should not adjourn; they should be determined because he

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was : it was tying down a majority to do what they did not wish, and that gentleman might carry the business through the house as he pleased ; he did not suppose it was his design, but merely to expedite business, but he thought it better to decide by a majority.

Mr. J. Williams said it would be in the power of a majority any time to refer a bill to a committee of the whole, so that sufficient time for a discussion might be had : he did not know whether this was the most expedient way to expedite business, but he wished some mode to be adopted.

Mr. Otis thought the whole house would have a common interest in the passing of this resolution, but if it conveyed any advantage, it would be to those who made it a point to oppose measures that were brought before the house, for they would have this advantage that their ground of opposition not being foreseen, they could not be answered. It would have the advantages of saving much time, and preventing that re-crimation which debate when spun out long was apt to occasion ; observations were then not only answered irrelevant, but the dignity of the house was much diminished by it : he would not exculpate himself from a share in the blame, but he had no objection to bear his share of the confinement of this motion.

As for the objection of turning day into night, they must risk it, but he rather thought it would have the effect to curtail debate.— He was desirous of making the experiment, and if it would not answer, the rule could be rescinded. He thought it would promote more harmony, and more satisfaction.

Mr. Macon said it always appeared to him that experience was the best guide in public actions : last session it was attempted, he believed by the same gentleman, but thought inexpedient and improper. It was very easy to figure advantages which examination would obliterate. The many oppositions, amendments, and re-committals of a bill which might be moved would protract the passing of a bill as much as by the present mode of doing business. He believed that though some weeks may sometimes be spent in a bill, it gave the community satisfaction. It was most convenient and best to go on in the usual way.

Although nothing had been done this session, he believed that the table was very little pressed with business, for nothing of a public nature had yet come before the house ; if any thing important should require it, they could meet earlier, as had frequently been done. But it was very extraordinary and unaccountable to him, when they were told that very important public business would come before the house, that they must shut their eyes. An increase of the navy and army, and a revision of the revenue laws must come —besides an appropriation act, and yet these important subjects were not to be discussed !

Mr. Nicholas wished gentlemen to consider for one moment what would be the effect of this resolution where there were so many speakers ; it would be, that the speakers of but one side only could be heard, if they chose to occupy the day. On a motion to rescind

this resolution gentlemen may go into all the arguments which they pleased.

Mr. Harper was satisfied that the motion would turn out to be of no use. He knew there was an abuse, but this was not the way to remedy it, nor would any thing but its common termination. The resolution would be evaded by motions to amend a bill, and then again an amendment be proposed to that motion, the resolution might thus be continually got rid of: if the house at any time got tired of a debate, it might resolve to finish the question at a given time but this was by no means a practicable way.

Mr. T. Claiborne said this motion would prevent the very end of their meeting, which was to discuss subjects that may be presented to view, and to come at a compleat understanding of them before they decided. It would be a preferable mode, to appoint one man on each party to manage the debate as lawyers in a court.

Mr. Rutledge said, it was impossible for him to say what would be the result of the experiment, or what obstacles the ingenuity of the house might throw in its way, but he wished to try it. He declared he had no sinister intention in proposing it, but merely an expediting of business. According to the way the house had proceeded, he thought they would not even get through the navy bill during this session!

Mr. Gallatin acknowledged he had been as guilty as any member in extending the debate, but he was not so far convinced of its error as to wish to confine it to one day. Gentlemen appeared to be mistaken as to the application of the resolution; it applied only to committee of the whole, thus when a bill was committed, there could be no motion to rise; however lengthy a bill was, it must be gone through within the day. He referred to such as the Bankrupt bill: collecting all the revenue laws into one act, or the excise law: these were extremely lengthy, and important, and required mature digestion in the detail. Again, it put it in the power of a committee who reported a bill to prevent all discussion on it; such as the committee of defence, to whom both those gentlemen belong, they have nothing to do but blend into one act all on that subject, and make it so lengthy that there would be little time but to read it. But it would be useless, a number of motions may be made to protract the debate, and yet keep the subject under consideration. It was impossible to do any good whatever, but might do harm. The best way to curtail the debate would be for a majority to agree to set on particular occasions until the question is taken.

Reference had been made to the bill for the punishment of crimes having taken up so much time: this motion would not have prevented it, for if his memory served him right, the debate was every day, except one, on different motions, and in different stages.

The resolution was not carried. Ayes 25.

Mr. Allen's motion was to print copies of the dispatches communicated on Friday, and the report this day sent to the house.

Mr. S. Smith hoped the question would be divided, as they were not of one nature; one was dispatches from our envoys abroad, and the other was a commentary on them, which if published, would be an acquiescence of this house to it.

Motion was then made to adjourn. Ayes 39. Noes 44.

A motion to divide the question, being declared irregular by the speaker,—

Mr. S. Smith moved to strike out the words "and this day," so as to leave the question to be taken first on publishing the communications.

Mr. Allen was opposed to the motion, for he thought the communications of last Friday ought not to go out into the world without something to correct those stupid errors which they contained: there was something exceedingly singular and unwarrantable in them, which required more than a mere commentary to expose them in a proper light. He was surprised at the inattention and disregard that marked the conduct of the house, whilst the report was reading; he supposed that not more than one fifth of the members were attentive to it; he hoped the house would not object to the publication of them together, for the errors ought to be corrected by some means. It was too easy, he said, to make the people of the United States swallow those kind of things: the public would be persuaded that the French Directory were sincere in their desires for an accommodation, but no man in his senses could believe that, who reads this answer: he wished the public to see the observations at the same time, and he did not know why any gentleman should be afraid to see an answer, as well as the facts.

Mr. Venable hoped the gentleman would modify his resolution in such a way that the house may be able to vote on the subject: it was not a fair way to propose two questions of a different nature, and thus to clog the votes of those who would vote for one part.—He had no objection to the quantity of the dispatches going out, but it appeared to him that the other paper was of quite a different nature. The gentleman said there were facts contained which were not proper for the people to see except accompanied by the report: it was surprising that the President should send papers to the house that the people could not understand, nay, he would go farther, he would say, that the house could not understand, without a dissertation of the secretary of state! are we so degraded that we cannot, or that the people cannot put a comment upon what the President thinks proper to send us without the comment of the secretary of state? It is impossible for me to vote for such a resolution connected as it is.

Mr. Thatcher said there was nothing new in this business: similar things had many times been done on former occasions, a report of the secretary of state accompanied the communications on the Algerine business, and no fault was found with that, the only difference is, that was received with closed doors, and then the gen-

gentleman from Virginia thought it was proper to lay them before the people, contrary to the opinion of the President, and they were published: if proper then, why should it not be equally so now? Indeed Mr. T. said, this had been the case more than once, when private communications were made by the President; but now a report of great importance is made by the secretary of state respecting the French, we are told that if this goes forth to the people, it will misinform them. The report did not contain any misstatement of facts; the house had heard what it contained, and were they afraid for the people to see it?

Mr. Sewall said that it appeared this report was considered as merely from the secretary of state: it was not so; it was from the President, although drawn up by the secretary of state; it was what the President in his speech had promised the house: whether it was originally drawn up by the President, or the secretary, was no difference, it was communicated by the President to the house, as his observations on the state of the union, and it ought to go forth to the people, and they could discover if he had drawn a wrong conclusion.

Mr. S. Smith was inclined to think the gentleman just sat down was totally mistaken. The President did not call it his, but he said it was "a report of the secretary of state," and therefore it could be considered as properly from him. Indeed it contained some things, so far as it had cut his ear, that ought not to come from the President; if he was not much mistaken it contained this sentiment, that those who voted for the President now in office were the true Americans, implicating that those who did not vote for him to come into office were not true Americans. He was certain this would never be said by the President. He wished to see what the report contained before it went out into the world, for it would be considered as the opinion of the house. He confessed he was one of those who did not hear it compleatly, but he thought it an extraordinary thing, such as never came before the legislature.

The speaker explained that it was a report of the secretary of State to the President, and by him communicated to the house.

Mr. Smith said he understood it so: not hearing it correctly he wished to know what he was approbating before it went to the public, for he did not think it was necessary for the Secretary of State to tell them what they should, or should not think. The gentleman from Connecticut (Mr. Allen) had distinguished a part of Mr. Gerry's report, on which he said he could not think the directory were in earnest in their seeming desires for peace. No man in his senses could think so, that gentleman said: here Mr. Gerry, a gentleman appointed by the President and approved by the Senate thought they were in earnest in their desires for peace: he was in his senses surely, but that was what he thought, whatsoever the secretary of state had said.

The speaker called Mr. Smith to order: he repeated warmly

that it was not from the secretary, but from the President, and must be considered as his opinions.

Mr. Smith continued, shall we believe the President of the United States or not? He says it is a report from the secretary of state.

The speaker again called Mr. Smith to order and he sat down.

Mr. Smith made an appeal to the House to know whether he might go on or not.

The speaker said the question was not whether the member should go on or not, but whether he was out of order or not, when the speaker called him to order.—Ayes 46—Noes 37.

Mr. Smith rose and proceeded. He said, that whenever a paper of this kind was brought before the House, gentlemen ought to be fully acquainted with its contents before they gave their approbation to it, as they could not else be competent to judge whether it was fit to go into the world: he did hope the gentleman would not have pressed his motion upon the house in this manner.

Mr. Bayard apprehended that when this subject was rightly considered it would appear as a paper properly from the President: he had given the dispatches as promised at the commencement of the session, but had not considered it compleat in itself, but had given it afterwards completed by one of the organs of government, and by this had adopted it as his act. The first letter read was a recd to Mr. Gerry, was not this the act of the President, altho' the Sec'y of State wrote it? The cases were synonymous. He had the power to communicate the state of the Union, and give his advice what measure the House ought to adopt: He had not only power, but it was his duty to do it. And would gentlemen say the House was degraded by receiving this constitutional information? From what source could information come with so much propriety? Was he not the centre of all foreign information as it respected the nation, and was it not right for him to give the House the information? If he found there were papers among the dispatches which contained false circumstances, would he not be guilty of a breach of trust in withholding that light, which he alone was in possession of? To agree with the motion would be to say they should not be printed, because one was of no use without being accompanied by the other. Gentlemen said it was approbating the sentiments it contained, but it was not: on the other hand to withhold them from the public would be to say that the Secretary had given the House what he had no right to do. It may just as well be said that a report which the Secretary had instructed his chief clerk to make out, was not the report of the Secretary of State, as to say this was not the act of the President. The question was, did he finally adopt it although drawn by an inferior? If so, the act was immersed, in its adoption by the superior.

Mr. T. Claiborne (Virginia) said he was not prepared to vote against this part of the resolution, nor was he prepared to vote for it, because he did not understand it, and if the question was now taken

and should be lost, he thought there was a rule of the House that would bar the gentleman from renewing it, and therefore he hoped he would not press it.

Mr. W. Claiborne (Tennessee) rose to remark that it was not the source from whence the information came that was degrading to the House, but the report itself. He took it to be the opinion of the Secretary of State, but that it came to the House from the President to accompany certain documents. From whatever quarter these opinions came he looked upon them to be degrading to the House. I have always thought free from any bias, and I have always delivered my remarks here with equal freedom: I am of opinion, and always have been that each department of the government ought to move on its own sphere, and now, when the President communicates to this House information on the state of the Union, he does what belongs to his department as executive, but when he gives us opinions to accompany it, he degrades the House. Sir, I am not satisfied to appropriate the money of the people to this object. Here are official, correct documents on the state of our foreign relations, let them go forth to the people, the people are possessed with judgment and can examine for themselves; but the Secretary's report communicated by the President, is not of sufficient authority to justify me to vote for the printing such a number at the public expense.

Again, it will carry this sentiment with it, that those who voted for the printing of this report, adopted the opinions it contained. If the sentiments of the gentleman from Maryland is correct and from the attention I gave it, I think it is, that the true Americans brought the President into office, I am against it, because I think that is a great calumny to a great number of the people of the United States: it is a fact that there are a great number who are firmly attached to the government, and have done as much to support it as any, and yet was in favor of the gentleman who was a rival to the President. Knowing this, I never will vote for the publication of a paper that will brand those characters as untrue Americans whom I know to have merited a contrary epithet.

Mr. Harper thought gentlemen gave ample proof that they did not understand this subject: he did not know what it was that they called a commentary, opinions, &c. it was no such thing, it was a statement of facts relative to our foreign relations. If it was from the President, he did not think it would degrade him, since he had done it heretofore, and had been thanked by the house for it. It was necessary to collect this statement of fact in order to judge of our foreign relations; if it was not reported in this manner gentlemen must do it themselves, but in this instance the secretary has saved them the trouble of going through such an extensive correspondence, and had thought when the people should have the dispatches before them they should also possess a general statement. Was it unusual? Why was it not considered degrading to the house some time ago when relating to the Spaniards on the Mississippi? But now gentlemen rose against the secretary of state for having introduced

his opinions on the house, but it was only a collection of facts; by it they would see the extraordinary artifice, weakness, duplicity and childish simplicity, all heaped together in this correspondence. It is not to do away any effects that this pamphlet might have upon the people, but to bring forward a statement of facts, to enable the house, as well as the public to form a judgment. Therefore, without being disposed to join in the calumny this paper is said to contain, or to adopt the opinions of it, he hoped it would be printed.

Mr. Varnum understood the gentleman who brought forward this motion as saying that he did it from a wish that this report should go out with the documents, in order to do away the falsehood contained in Mr. Gerry's statements. And he seemed to allude particularly to a passage in Mr. G's letter, where he says, "on the 26th of July, I left Paris, and from the best information I could obtain of the disposition of the Executive Directory, they were very desirous of a reconciliation between the two republics." The gentleman from Connecticut says, that the man who could write this must have either been insane, or known he was writing a falsehood. The gentleman must therefore accuse Mr. Gerry of uttering a known falsehood, since no one would believe he was insane, and that it is necessary to do away this falsehood by means of this report of the secretary of State.

Mr. V. said, whoever is acquainted with Mr. Gerry's character, must know, that such observations very ill apply to him. Mr. G. is a man of the utmost veracity and independence; a man who would not say he believed a thing, except he did really believe it. This, said Mr. V. is so well known to be Mr. G's character, that he wondered any man should have accused him of falsehood. But it seems the facts which these documents contain are not agreeable to the Executive Department, and they have thought it necessary to accompany their publication with a commentary which they think will shew them to be unfounded. They seem to think it would be dangerous to suffer any thing to go out to the people, which would hold out an idea that the French government is disposed to a reconciliation with this country. On the contrary, they wish to hold out the idea that France is determined to go to war with this country. It seemed to be a darling object of a number of people in the United States to involve this country in war. [The Speaker said such expressions were out of order.] Mr. V. said he was against the printing of a report which would serve only to calumniate a man whom he was certain did not deserve it. But, said Mr. V. I have seen gentlemen, of the same political sentiments with the gentleman from Connecticut, lately from France, who are of the same opinion with Mr. Gerry, and do not scruple to avow it. Their friends here tell them they are mistaken; but he left it with the public to judge whether gentlemen who formed their opinions from what they heard and saw in France, or those who take their opinions from what they hear and see here, are most likely to be right.

If gentlemen are determined to have this report go out to the people with the dispatches, he hoped at least they should first be permitted to see it. He therefore moved an adjournment, as he expected it would be printed for the use of the house by to-morrow.

The motion was negatived, 44 to 39.

Mr. R. Williams could not see why gentlemen should refuse to let questions be taken upon the subjects separately, except from a determination that the house should not vote understandingly upon it. The gentleman from Delaware says, that if the words are struck out, it will imply a disapprobation of the report. This difficulty was occasioned by connecting the two things together, which bespoke a want of candor; because if there be a majority for the publication, they could have carried the question separately. He was far from wishing to cast a censure upon the Report, before he knew whether it deserved it; but if it contained the calumny which had been spoken of, he certainly should oppose its publication.

Mr. Eggleston thought the gentlemen who consider themselves as the exclusive friends of the Executive, had, on this occasion, done the President great injustice by ascribing the report of the Secretary of State to him; for he had in his messages cautiously guarded against any such conclusion being formed by calling the Report, "a report of the secretary of state, containing some observations upon the documents." Yet gentlemen persist in confounding the two things together, by wishing the same respect which is due to every communication from the President, to be paid to this report from one of the heads of Departments; and went so far as to say that if the secretary of state had employed his clerk to write a report, which he approved and sent to the President, and the President sent it to this house, it must be considered as a report of the President of the United States.

If gentlemen looked to Great Britain, they would find a better doctrine. There when the speech of the king came under consideration, it was considered as the speech of the Minister; but here gentlemen reverse the case, and make the report of the secretary of state the report of the President, though he has carefully guarded against such a conclusion. He hoped, until more was known of the contents of that paper, it would not be ordered to be printed in the way proposed.

Mr. Thatcher said gentlemen appear to be unwilling to vote for the publication of this report, because they have not read it; if this was a good reason, it would appear equally against printing the documents, since they have not read them—but there is no objection. This he did not think very consistent conduct.

Mr. S. Smith hoped it would be admitted there is great difference betwixt official documents from a public minister, and a report of any kind from one of the heads of our departments. When the report of the secretary of war came under consideration, he hoped gentlemen were not to be deterred from commenting upon it by being told it was a report of the President.

Mr. Craik said, gentlemen did not distinguish betwixt Reports made by Heads of Departments to the house, or committees of the house, and Reports made from the same quarters to the President, and by him communicated to the house. He was not disposed to

think, however with some other gentlemen that what came from the President was not to be examined and commented upon. He was surprised the gentleman from Virginia should think the President ought to be considered in the same light as the king of Great Britain, and that therefore, "he could do no wrong."

Mr. Eggleston declared he said no such thing.

Mr. Macon would not consider whether this Report is the Report of the Secretary of State, or of the President; let it come from which it would, he felt himself at full liberty to remark upon it. His objection to the printing of this paper was founded upon its being a new custom. With respect to the report on Algerine affairs, which had been referred to, it contained a statement of official papers without any opinion upon them. He had another reason for objecting to it. He thought that all the official papers with respect to our dispute with France ought to go out to the people in the same way; and as former communications had gone without a commentary to direct the people's conclusions either this way or that, he hoped these would be suffered to go out in the same way. He did not think there is any occasion to direct the people how to think; he believed the great body of them would always think right, if left to themselves. Was it because former communications looked more like war, than these, that they were given to the people without commentary; and that because these have the appearance of peace, it is necessary to twist them to look a contrary way? He saw no such necessity, and was therefore opposed to the printing.

Mr. Gallatin saw no reason why there should be an extra publication of the dispatches themselves, except that heretofore it had been thought proper; but though this had been the case, with respect to the dispatches, he believed no instance could be adduced of printing an extra number of any report of the Secretary of State, which according to the President's own description of it, contains "observations upon the dispatches." For though the gentlemen from Delaware has said, that this is a part of the communications promised by the President of the United States at the opening of the session, if he had attended to the Message he would have found that the President says, that "the communications promised at the opening of the session, relative to our affairs with France, are contained in the sheets which accompany this;" and he adds, "that a report of the Secretary of State, containing some observations thereon, will be laid before the house on Monday." The two things are as distinct as possible. They are not called "facts" by the President, but "observations upon the dispatches," and they are so. There are, indeed, a few insignificant facts scattered among the observations; and he should have no objection to have them tacked to the end of the dispatches, though if the President had thought them of importance to be communicated, he would doubtless have sent them along with the others. The report contains no information, but deductions and observations from the communications made last year, and those now made. He therefore saw no reason why the expence of publishing an extraordinary number of this report, should be incurred, more

than of any other report from one of the Heads of Departments. To send these observations and reasonings out to the people, would be to say that they are in all respects proper and true, and therefore it ought not to be done. Mr. G. did not consider either the resolution or the amendment, as of any importance. He had however another reason for wishing the report not to be printed, which was, that, in many instances, he believed it contains bad reasoning, that facts are improperly stated, and that it is in some parts improper in itself.—Though these reasons would induce him to vote against printing an extraordinary number of this report, still his objections are not so strong as to induce him to vote against the resolution, if the amendment should be negatived; because he did not think the report would produce any effect upon the people; he believed they would do as well without it as with it; but if they had it, he did not believe it could mislead them in any material degree.

The paper being under consideration, he might be asked to state some of his objections to it. He could not be expected to do this with much correctness; but it had struck him in the reading to be a very extraordinary production. Making an observation on the French Minister having declared to Mr. Gerry that he did not wish the government of the United States to break the British treaty, the Secretary of State finds fault with that, and seems desirous that the French government should have insisted on our breaking the British treaty. For his argument appears to amount to this, "Only think of it—those villains will not demand that we should violate our treaties," and he really appears very angry on the occasion. As to the general deduction, that the French government is not disposed to treat with us, he had only heard the report once, and was not yet prepared to form a correct opinion upon that part. But the gentleman from South Carolina seems to suppose that ignorance and a childish reliance are so conspicuous in the dispatches, that it is impossible any one can fail to see them. If this were the case, he could see no use for this commentary. Mr. G. did not understand whether the gentleman meant to apply his terms of ignorance and childishness to the French Minister or Mr. Gerry, but supposed to the latter. He had himself read the greater part of the communication, and had neither found much of ignorance or childishness. He found, on the contrary, opinions expressed with modesty, and which being formed on the spot, were certainly intitled to confidence.

But the gentleman from Connecticut, says that this report is necessary in order to correct the false information and wrong conclusions contained in the dispatches.—In saying this, the gentleman could not allude to the correspondence betwixt Mr. Gerry and the French Minister, but that betwixt Mr. Gerry and the Secretary of State. The gentleman seems to be afraid of the effects which this correspondence will produce. Mr. G. believed the letter of Mr. Gerry would produce an effect.—Let him, said Mr. G. get as many of the Secretary of State's reports as he pleases, and send them out with as many of his own observations as he pleases, and he defied him, though thousands of his copies were printed and dispersed, to

prevent the impression that would be made upon the public mind by the reading of Mr. Gerry's letter, which was known to be written by an honest man and a man of sense. The opinions of such a man will certainly have greater weight than the opinions of men who are at 3000 miles distance. Whether the effect will be pernicious to this country, he would not say; it may be so considered by some gentlemen: but he believed the circumstance of their thinking it necessary to send out an antidote with the poison will operate against them, as it will lead the people to suspect that all is not right. They will naturally say, Why are not these dispatches sent to us as before? Was not the opinion we formed of the last a correct one? Did we not then decide rightly; and cannot we now be trusted to decide for ourselves? Because we have not been permitted to do so, it must have been supposed by the President, the Secretary of State and a majority in Congress, that we should draw a different conclusion from the facts sent to us, from what they have done.

On a proposition for calling for the dispatches now communicated, it had been given as a reason why they are withheld, that the Secretary of State was preparing a report to accompany them; from which it may reasonably be inferred, said Mr. G. that neither Congress nor the people were to be trusted to make their own conclusions from these dispatches; that they had not sufficient discernment to do it, without receiving a previous lesson from the Secretary of State.

This, said Mr. G. will be the natural conclusion; but if the dispatches are suffered to go out as usual, the people will form their opinions candidly upon them.

Mr. Edmond said, the question was, whether the report of the Secretary of State should, or should not go out to the people, with the dispatches with which it is connected. It is said, the report contains something beyond facts, and that therefore it ought not to be printed with the dispatches. And does not the letter of Mr. Gerry, besides stating what he has done, also contain his opinions. Whether his opinion, or that of the Secretary of State, is most correct, he would not now undertake to say. He had not perused them. The gentleman from Pennsylvania says, the deductions of Mr. Gerry are modest and conclusive, and will have great effect. On the other hand, he says that the deductions contained in the report of the Secretary of State will operate against him. As he did not know what either contained, and wished for the people to see both, he should vote for both being printed.

Mr. Otis was of opinion, that it was not the house that was degraded by receiving this report, but that the people of the United States are degraded by the arguments of the gentlemen who suppose they are not to be trusted with the report of the Secretary of State, and that they cannot determine how far its reasonings are just or otherwise. The gentleman from Pennsylvania is opposed to the publication of this report, because he does not approve all the opinions contained in it; and will the gentleman say that he approves all the sentiments contained in Mr. Gerry's letter? For in

stance, does he approbate this: "If on the other hand, Great Britain unaided had fallen, the United States would have been in a much better condition at peace, than at war with the most formidable power the world had exhibited. In such an event, they could have but small hopes of resisting France; and it might have been deemed madness in them ever to have attempted it!" - But the gentleman from Pennsylvania says that these dispatches ought to go out without this report, because the former dispatches were so sent out. This, Mr. O. thought a good reason why this report should be published, because it brings into view all the facts contained in the two dispatches, and part of which may, by this time have been forgotten: and who, said Mr. O. is so proper to draw a statement of this kind, as the Secretary of State, who is situated at the source of all information concerning our foreign relations? In his mind the report would be considered as the finger of truth in this business. It confirms what was said by the President at the opening of the session, "of the ultimate failure of all our measures for a reconciliation:" and also, that by some of their declarations it would appear, "that the French are averse to a rupture, but that unfortunately no reliance can be placed upon their declarations," or in plain words that no one can believe any thing they say.

Mr. O. was glad to see this opposition made to the publication of this report, as it convinced him that gentlemen are fully impressed with the effect it would have upon the public mind.

Mr. Shepard asked if gentlemen would be opposed to the publication of this report, if they thought it contained false reasoning? No, they would not. They are convinced, on the contrary, that it contains truths, and they are afraid the people should see them.

Mr. Pinckney was astonished to hear so much opposition given to the publication of all the information for the people, which is received by Congress through the proper official channel, on a transaction of the utmost importance to them. He could not conceive what hidden reason could lurk under this opposition. A negociation has been carried on by the President of the United States. He has acted upon the light which he has received upon the subject; and if he chooses to give his opinion upon any dispatches through the medium of the Secretary of State, with a view of justifying the part he has acted, is he not justified in doing so? And when he does it, shall the house refuse to make those reasons public? The President would have been wanting in his duty, had he not given this information to Congress. He is the source of knowledge with respect to our foreign relations, and is therefore the only person who can give information. Are we afraid, said Mr. P. to trust the people with this information? He saw no reason which could apply to the publication of the documents, which would not also apply to the publication of the report. The gentleman from Pennsylvania, says it will produce no effect; but his attempt to stifle its publication, seems to speak a different language. The same gentleman from Pennsylvania, had insinuated that it was the wish of certain members in this house to plunge the country unnecessarily into war. It might be replied,

that there are other gentlemen who wish to lull the people of the United States into a false security, in order to prevent them from vigorously preparing to defend themselves against attack. This would be repelling one unjustifiable insinuation, by another, perhaps, equally so.

Mr. Venable said, as what he had said, had been frequently alluded to, and unfairly stated, he must repeat, that he was far from wishing to preclude the people from a sight of this report. The objection, is not to the making of it public (because it will doubtless appear in all the papers, which give it a greater publicity, than any other mode.) That is not the object; gentlemen know it is not.—The secretary of state may circulate his opinions in every corner of the United States, if he pleases; he only objected to the mode of doing it. Mr. V. repeated some of his former expressions as to the report being degrading to the house; and said if the secretary of state were to be permitted to send to Congress comments upon one subject, he might upon another, and where would be the ground left for legislation? It would become very limited indeed.

The question on striking out the words, "and of this day," was negatived, 46 to 36, and then, the Blank being filled with 1200, it was carried without a dissenting voice. Adjourned.

Tuesday, January 22.

A report was made from the committee of claims, by Mr. D. Foster, against the petition of John Roland for military services during the late war, and concurred in by the house.

Mr. Harper called for the order of the day on the bill for rendering aid to sick and destitute seamen in foreign countries.

The house in committee, Mr. Rutledge in the chair.

The bill provides a sum for the relief of this class of people to be paid by the consuls or any other person, as an addition to twelve cents per day, now allowed, that being sufficient to their necessities.

Mr. Gallatin moved to strike out the words, "or any other person."

Mr. Harper said there were a number of places where there were no American consuls, but there being some consignee, or other person who would be willing to aid those persons either to return to their country, or else to make application to a consul, which may be many miles distant, which they could not possibly do without assistance, he thought it should be allowed.

Mr. Gordon thought it was proper to leave it to the consuls to disburse the charges that may be incurred in the person's making application to the consuls. It was a door, by which he thought frauds might enter: there may be claims brought, of which no idea could be formed, and no responsibility being attached to the persons who pretended they had paid the money, and therefore it become an object of fraudulent speculation, and it would be impossible for the secretary of state to discover the deception.

Mr. S. Smith said that a number of men were cast on shore in this destitute state in the West-Indies, where there was no consul, and if left in distress must enter on board ships of war, or starve; they had

no other alternative: but if there was a law for the humane hand, to expect his expence refunded, many would come forward who would not risk assistance without.

On the question to strike out. Ayes 25. Noes 34.

The committee rose and the house having the bill before them, Mr. Gordon renewed the motion of Mr. Gallatin. Mr. Bayard spoke a few words in favor of the motion, and Mr. Otis against it. The motion was lost. Ayes 35. Noes 40.

Mr. Bayard moved to add the words "properly authorized by the government of the United States," as he said it would be in the power of government to give such authority where they may see it necessary.

This was also lost. Ayes 35. Noes 38.

The bill being gone through, it was ordered to be engrossed and read a third time to-morrow.

Mr. Harper from the committee of ways and means reported a bill for the compensation of clerks in public offices, which was read and committed to the whole house for Thursday.

A message was received from the Senate, informing the house that they adhered to their amendment of the bill for the enumeration of the people of the United States.

Mr. Otis called for the order of the day on the bill for suspending the commercial intercourse with France and her dependencies.

House in committee, Mr. Rutledge in the chair.

The fourth section enacts that the President shall have power to open a negotiation with France, or any persons claiming or exercising the government of any place belonging to the French Republic.

Mr. Nicholas moved to strike out the words in *italic*.

Mr. S. Smith understood that the reason why these words had been introduced into the bill was, in order to meet the case of Hispaniola. It was well known that a new agent had succeeded Hédouville there; that he has published a proclamation, stating, that notwithstanding the decree of the French Republic which directs the seizure of all the American vessels and their cargoes, whenever there shall be found on board an article of British manufacture, he was authorized to suspend that decree so far as relates to vessels coming to that island. And, Mr. S. said, if any agent in the West Indies could give assurances that no capture should take place from the island of which he is governor, then the President shall be authorized to open our commerce with that island. It was on this ground that he had given his consent to this clause of the bill.

Mr. Nicholas said, if the clause were intended to meet the case to which the gentleman had alluded, the agent had his powers from the French government, and whatever he did must be considered as done by that government, until his power should be revoked; but, as the clause stood, it would authorize the President to treat with usurpers; not merely with persons in power, but with any person having momentary possession of a place, and he could not agree to such a principle.—Why, asked Mr. N. was this law originally passed? Was it not in order to bring France to terms by distressing

her islands? Suppose France should say to one of her agents in the West-Indies, "you shall be authorized to make a stipulation with the United States to take off the suspension of intercourse with respect to your island." Would not this be to acknowledge that there our regulation pinched her? And would not the opening of intercourse with such a place, by relieving the distresses of France, defeat the original intention of the law? [Mr. Harper asked if there was any question before the committee?] Mr. N. said he would make one, by moving to strike out this section. A clause of this kind, Mr. N. said, held out an invitation to agents to abandon their country, and to set up governments of their own. If it were to operate only in a partial manner for the relief of such of the French islands as are so much distressed that the government should be willing to restrain her depredations so far as related to those particular places, where will be the efficiency of the law afterwards? It will only prove a burden upon our own citizens, without injuring France. If we are to have a free trade with the West-Indies, why deprive the tobacco-planters of going immediately to the country where the article is consumed, instead of going through Spain, and by other circuitous routes? But the other aspect of the bill, Mr. N. said, was the most extraordinary and exceptionable he ever saw. It authorised the President to treat with persons "claiming authority." This provision may produce consequences the most fatal.—Suppose any of the islands made a separate negotiation with this country. What will be the effect of our having thus enticed them to disobey their government? Will this government not be chargeable with having assisted in detaching such a colony from its government? And if so, could any thing afford a more lasting cause for war, than an act of this kind? If there be any disposition in the French government to treat (which however the secretary of state denies) a conduct of this kind would effectually root it out, and there could be no treaty, no peace between the two countries, for years to come. If gentlemen, therefore, can give us no better explanation of this clause than has already been given, he hoped it would be struck out.

Mr. Otis did not believe that a more unjustifiable jealousy ever entered the heated imagination of the gentleman from Virginia, than that which occupies it at this moment. He seems to think that this section of the bill is intended only to encourage usurpation and rebellion, whereas a slight attention should convince him, that when any of the French islands or dependencies revolt and declare for independence, neither the law passed the last session, nor this bill will apply to such a case. In such an event there is nothing in the existing laws to prevent our carrying on a free trade with such revolted island. If attention be paid to the first section of the bill, it will be seen to apply only to such places as are under the acknowledged government of France, and the moment a place is no longer under her government, both the existing law and this section become

full with respect to that place ; and a new relation would be created which would be regulated under the law of nations. If a rebellion of this kind should break out, it would become a question to what extent we ought to carry on commerce with the rebellious place ; and we should then be governed by existing circumstances. If we should be at war with France, we should doubtless, said Mr. O. avail ourselves of the trade to its full extent without respect to her wishes ; but if an accommodation of differences should be effected, and the mother country should prohibit all trade with the rebels, it is not presumable that this government would sanction any commerce that would provoke a war ; or protect adventurers from the seizure and confiscation of their property.

But it is not enough, observed Mr. O. to say, that this section does not relate to rebellious colonies ; it is merely a provision to meet such conditions as the agents of the Executive Directory are entitled to make, consistently with their allegiance to their own country, such at least as they constantly undertake to propose. Without assuming to define the powers of these agents, it was very clear that they have undertaken to dispense with the decrees and laws of the Republic, whenever the exigencies of their government have, in their opinion, made it necessary or convenient.

At St. Domingo and at Guadaloupe, the agents seem to exercise an unlimited control over the trade and maritime concerns of those islands. He presumed they had a discretionary right given to them to relax or suspend many of the decrees of the mother country, with respect to the territory they are to govern. The uniform conduct of Santhonax and Polverel, and of all the commissioners at St. Domingo shew this to be the case ; and at Guadaloupe, Victor Hugues has proved himself to be nothing less than a despot. If this bill passed, these commissioners may open a commerce with this country, even though an open war should exist between this country and France. Nay, Mr. O. said, he had a proclamation of Hedouville, the late agent at Cape Francois, in his hand, which shews that he had determined to adopt this line of conduct. [Mr. O. read the proclamation, which states that neutral ships and cargoes, that provisions and dry goods shall be admitted into St. Domingo in American bottoms, that they shall not be seized when destined for French ports, but pass unmolested by French cruisers, even if war should break out between the mother country and the United States.]—Now, said Mr. O. the interest of this country, and of our mercantile citizens in particular, require us to place ourselves in a situation to meet these advances. Can there be any difficulty in giving to the President a power with respect to the trade with a part of the French dominions, which he at present possesses over the whole ?—Gentlemen have said that an agent is arrived from an usurper in St. Domingo. Mr. O. said he did not know the fact. He did not know of an usurper in St. Domingo. He believed general Toussaint had

succeeded Hedouville in the government of that island ; that he had, in imitation of his superiors, sent him off in the same way as in the mother country those are sent off who may be obnoxious to the designs of the reigning and the strongest party. But it does not follow, that these measures of general Toussaint will not be ratified by the French government. The same general had heretofore sent off the commissioner Santhonax. He was not, however, for this cause, declared to have forfeited his allegiance, but pains were taken to appease and reconcile him, and Santhonax came back. He was afterwards succeeded by Hedouville, who is in his turn, sent on a voyage to France.

But said Mr. O. shall we now begin to examine into the legality of the powers of persons in authority, either in France or her West India possessions ? Have we not uniformly adhered to the principle, that those who exercise powers *de facto* are the only persons we are bound to recognize ? From the first dawn of the revolution, we have said, we never questioned the legitimacy of the power exercised in France ; to us it seemed indifferent whether Jacobins or Girondists were at the helm of affairs ; whether it was a reign of terror or of moderation. We have constantly sung hallelujahs, and offered adorations to the great Republic, one and indivisible, without considering by whose hands the power was exercised. It is now too late to change this system. We have no way of knowing, said Mr. O. whether the agents of the directory act in conformity to the will of their masters or not, until the government declares them out of their allegiance. It will then be soon enough for us to determine the posture which good faith and policy requires us to take.

But the gentleman from Virginia says, we ought not to treat with individuals under any circumstances ; but it appears probable that the French Republic may permit her agents to carry on this commerce, and to give us satisfactory assurances of safety and protection without a treaty ; and such an arrangement would be advantageous to that republic. We find, indeed, said Mr. O. from the papers on the table, that one of the complaints of that government is founded on this suspension of intercourse, and therefore to restore the trade in part is to diminish the cause of complaint. With respect to the remark of the gentleman from Virginia, that it was the object of the original act, by distressing France to bring her to terms, he differed in opinion from him. It was merely a defensive measure. Our trade became so insecure, that it was necessary to do—what ? Conquer France ? No ; but to prevent the ruin which threatened our citizens, by prohibiting all intercourse with that country, and its dependencies ; and whenever an end is put to these aggressions and depredations, the suspension may be removed.

This said Mr. Otis is not a novel practice. At the commencement of the late war, the citizens of the Bahama islands were excepted from the general regulations and orders prescribed to our

privateers. It is very possible said he to be at war with a nation, and yet at peace with a certain portion of its territory. We find by the papers upon our table, that France says her privateers have transgressed their authority, and that they have now determined that no commissions shall be issued, except by their agents. Let us be prepared to meet them if they will act accordingly! And if their agents in the colonies restrain privateering and depredation within their respective jurisdictions, let us avail ourselves of their good dispositions without any nice enquiries.

Mr. O. had said, that this law has no allusion to any country in rebellion; but he could conceive it possible that St. Domingo may declare itself independent, and become so, in spite of the opposition of France, or the wishes of this country.—Far be it from me, continued Mr. O. to contend that it is desirable for the interest of the United States, that such an event should happen: such a doctrine at this moment would be unseasonable and improper; but if it does take place, he might say without offence, it would be good policy to be upon the best terms with the persons in authority there; if not, the inhabitants of that island may become pirates upon our trade, and do us more mischief than we formerly suffered from the Barbary powers. To prevent which let us feed and clothe them and deprive them of inducements to quit their island.

Mr. O. hoped therefore, this section would be retained, and that we should not by refusing to listen to these people, throw them into the hands of another power. This island, said he, may prove a very formidable enemy or a very useful friend.

If we recollect, said he, what was done by a handful of Maroons of Jamaica, we shall form no contemptible idea of a population of 300,000 souls of which 30 or 40,000 are well disciplined troops, and who have in their possession one of the richest islands in the West Indies, and if driven to despair, would have it in their power to inflict deep wounds upon our commerce.

While, therefore, we carefully abstain from inciting them to revolt, and are silent upon the result of their independence, in reference to this country, we should not omit any fair occasion to teach them the advantages to be derived from an amicable intercourse with our country; and to cultivate those good dispositions which others will improve if we unwisely repel them.

Mr. Harper did not know that he could give an explanation of this section which would be satisfactory to the gentleman from Virginia; but he would state what was the intention of the bill, and what he thought would be its effects. He conceived that the section now under consideration is in strict conformity with the bill heretofore passed. The object of that bill was twofold; first, to save our commerce from that speculative and hazardous enterprise, which the high profits made by successful voyages enticed the merchant to go into; which was a species of gambling, by which some made large fortunes and others sustained heavy losses. This trade

was something of the nature of Faro Banks, or Lotteries, which all good governments have thought proper to prohibit. The government of this country thought it wise to interfere, and say to the merchants " You shall not run these great risks ; for though a few of you make great gain by the trade, the loss upon the whole, is much greater than the gain." This was the object. The other was to deter the French nation, and those exercising authority under it, from committing depredations upon our commerce, and thus procure protection upon our trade. By what means was this to be accomplished ? By withholding from the French those articles of prime necessity, which they were accustomed to receive through the medium of our commerce, to produce an effect which they should feel.

Let us examine, said Mr. H. whether this section is in conformity to these two objects. There could be no doubt with respect to the first ; because if you can prevail upon those who heretofore encouraged privateering to forbear to make farther depredations, our commerce will unquestionably be rendered safe. The reason, therefore, for laying the restriction, is thus removed ; and he saw no reason why it should be continued.

But if gentlemen say, that this clause will hold out an excitement to rebellion, as it proposes to negotiate with unauthorized agents, it says to the colonies, " rise and shake off your allegiance." How ? Is it throwing off allegiance to the French republic, to say that they will not fit out privateers against us ? Mr. H. asked whether the colonies are obliged to fit out privateers ? No such thing ; they may in case of war privateer ; but it is a privilege and not a duty. Is the advantage held out to the colonies by this bill, on condition that they revolt ? We say expressly the contrary, viz. " Whilst you continue under the French Republic, and shall nevertheless cease to exercise against us the right of privateering against our ships, we will trade with you as usual." This cannot surely be construed into an exciting of rebellion. We know, said Mr. H. that these colonies have privateered against us. Whether they have done what they were not authorised to do, is not for me to enquire. If they will not give up the privilege of privateering, they cannot have the benefit of our trade. If they had not the authority to do it, he supposed they would not do it ; but if General Toussaint prohibits privateering, we should suppose he has the right to do it.

If the effect which the Gentleman from Virginia mentions, could be produced upon the French government, by continuing the restrictions, it would be well to continue them ; but, said he, we have seen how little France cares for the welfare of her colonies, and therefore cannot reckon upon such an effect. To persevere with a view of obtaining an uncertain good would be bad policy, when by making the proposed change, we can obtain a certain good. Scarcely can any good man hesitate about the choice, when certain and precarious advantage is set before him.

Mr. Gallatin said one of the objects of this bill, when it passed at the last session, was to prevent depredations upon our commerce; but a majority of the house who voted for it, did so with a view of compelling France, by the loss of our trade to her islands, to come to reasonable terms of settlement with the United States. It was then said by some gentlemen, that it was not improbable that the trade to the West Indies was even more advantageous to the United States than to France, valuable as it was to her; and that therefore it would not produce the effect predicted. This was his opinion, and he therefore voted against the bill. But though he voted against this measure, and some others, which he thought at the time premature, yet a majority of Congress having, by adopting them, placed the Nation in its present situation, whatever his opinion might then have been, and whatever it might now be, as to the probability of an end being put to our differences with France, he should think it bad policy, under present circumstances, to recede from the ground then taken, since such a conduct could betray nothing but weakness, and tend to defeat the object which all doubtless have in view, whatever might be the different opinions of obtaining it, an honorable peace. Though this law therefore, was limited to the present session, he was ready to vote for a continuance of it; but the section now under consideration, goes entirely different to any either taken or avowed at the last session.

The law now in existence has a section something similar to this, though widely different in substance. It is to this effect; that if before the next session of Congress, the government of France, *and all persons under its authority*, shall disavow and be found to refrain from depredations upon our commerce, then it shall be lawful for the President to suspend the operation of this law! Not to any part, but with the whole. By that law, we said, "We are not at war with you, we will adopt such measures as we think necessary for our present situation. We will suspend commerce with you, as a Nation; but if you as a Nation, shall disavow and refrain from depredations, we have given the President power to renew our commercial intercourse with you."

But what, said Mr. G. is the language of this section? It is this. [He read the section as above.] It is, that if any part of the Nation, or any commanding officer, or person claiming authority, in any one port, or island, shall take those steps which we consider necessary for that Nation to take, it shall be lawful for the President, to remit and discontinue the restraints, prohibitions, &c. Instead of taking a general national ground, it provides for the negotiation of an individual, on his private account, who may either exercise, or claim to exercise authority in any island, &c.

We are not, said Mr. G. at war, and an act of this kind, is an act, which, if it can be justified at all, can only be made use of in a state of war. It is only in such a state that we are authorised to

declare, that we will act a different part with certain parts of a country at war, from what we meant to act with the whole; that we will negotiate, treat, make specific regulations, with private individuals, provided they shall do—what? Disavow what the French Republic does not disavow. The present act makes it necessary for the disavowal to come from the government; but this section says, “that altho’ the French government shall not disavow or restrain her depredations, &c.— Yet if an individual shall do it, we will open a trade with this individual. This, said Mr. G. would be to encourage insurrections; it is establishing a doctrine which is reprobated almost every day on this floor, that it is right to divide a people from its government.

Before we examine what would be the consequence of such a conduct, it might be proper, Mr. G. said, to notice what had fallen from the gentlemen from Massachusetts and S. Carolina.

The gentleman from Massachusetts told the house that this section could not apply to any place in rebellion, because no part of this bill does apply to any such case: and therefore, that it is wrong to suppose that this section could not apply to any place in rebellion, because no part of this bill does apply to any such case; and therefore, that it is wrong to suppose that this section holds out any encouragement to rebellion. In proof of his assertion, he referred to the first section of the bill to shew that it relates only to places under the acknowledged government of France. The bill prohibits intercourse “to any port or place within the territory of the French Republic, or the dependencies thereof, or to any place in the West-Indies or elsewhere, under the acknowledged government of France.” This description relates, said Mr. G. to two different states of things; 1st, commerce with any port or place within the territory of France (or its dependencies) or to any place in the W. Indies, under the acknowledged government of France. These words relate to places which they may take in the course of the war, which though under the acknowledged government of France, do not make part of her dependencies. Therefore, the argument of the gentleman is altogether groundless.

The gentleman also told the house, that this clause was meant to apply to certain acts of the acknowledged agents of France who may open a trade with us, notwithstanding the decrees of the Directory, and he introduced the proclamation of Hedouville, to shew that this was the intention of the bill. Whatever the proclamation of Hedouville may have been, this bill was certainly not meant to meet any such case; if it had it would have been differently expressed. This section says, that when any person claiming and exercising command, &c. shall clearly disavow—what? the aggressions, depredations and hostilities of the government under whose authority they act. What does this amount to? certainly to an official disavowal of all the acts of the government of the mother country, which have violated our national rights and sovereignty.

Both the gentleman from S. Carolina and the gentleman from Massachusetts proceeded to say, that the effects produced by this clause would be beneficial to the United States. Suppose this should, in some degree be the case, if other effects of a serious and mischievous nature may proceed from it, the measure ought not to be adopted.

The effect expected to be produced is to operate not upon France, but upon certain agents, or commanding officers in the West-India Islands, by inducing them to forbear from privateering. Supposing this effect is produced, will it not also be considered as a lure thrown out to encourage those agents to negotiate in their private capacity? Certainly one effect will not prevent the other, and the whole of the subject ought therefore to be considered together.

It is said that any kind of negotiation which might be entered into with any agent of the Executive Directory, whatever may be the situation of that agent, ought to be considered as lawful, because we ought not to enquire into the right which a person has to exercise a power; that it is enough for our purpose, that he does exercise it. This doctrine, said Mr. G. will not apply to the commanding officer of an island; it will apply only to the government of a nation, and not to a part or a section of a nation. No one could suppose it right to treat with a town of any foreign nation, which was in a state of insurrection, from whatever source the person proposing to treat, might have received his power. The case is different with respect to a nation. Whoever exercises the government of a nation is supposed to do it by consent of the nation. This rule will not apply to colonies; an agent in the island under the government of France, must be considered as an agent of the French government. So long as he remains an agent of France, it is no matter to us whether he obtained his situation by transporting his predecessor in office, or by any other improper act; whilst he remains an agent of the French government, he must be considered as such. But this section has nothing to do with a case of this kind; it contemplates a period when these agents shall have ceased to consider themselves as such; when they shall have thrown off their allegiance to their government, then this section says, we shall be ready to negotiate with them.

Mr. G. conceived, therefore, that the question comes to this. Is it proper to give power to the President under our present circumstances, to stipulate with certain agents, that in case they will disobey their government, by declaring themselves independent, or by throwing themselves into other hands, we will renew our commercial intercourse with you. No man, said Mr. G. will deny, that a trade of this kind would be advantageous to the United States, he believed it to be one of the most lucrative branches of our commerce; but it was nevertheless thought proper, at the last session, to suspend it, in order, as was then supposed, to effect a greater good. Therefore this commerce being advantageous to the United States, is not a sufficient reason why this measure should be taken, if it be wrong itself, and may produce greater mischiefs, than the trade can do us good.

What, said Mr. G. are the inconveniences which would arise from a measure of this kind? It must be allowed in the first place, that

it would give the lie to all our former declarations of abhorrence against the attempts of other countries to divide the people of a nation from their government; for we here, said he, assume the ground, that it is proper to negotiate and stipulate with a part of the people, with a certain district of a country, with any person who shall chuse to claim the right of governing in any place. We abandon the general ground of treating with a foreign government, and determine to treat with any individual who may either have, or claim to have authority. Mr. G. believed a principle of this kind at all times improper; and it would be peculiarly improper in us to act upon it, with respect to a nation, against which we have so many grounds of complaint of this kind. He had already stated, that it could only be justified in a state of war, if then, to hold out encouragement to insurrection and rebellion to the colonies of another country.

But, provided the act be justifiable, would it be our interest to do it; and what would be the probable effect of such a measure? To be able to speak upon this point with perspicuity, it would be necessary to investigate the real object of this section a little more closely. Mr. G. wished gentlemen had been so good as to have given the house all the information they possess on this subject; he wished Congress had received whatever official information there may be on this subject in the archives of the Secretary of State, or all the information which may exist with some gentlemen on this floor. Deprived of this information, said Mr. G. we can only speak of what we have heard, but which, he believed, susceptible, in some degree, of proof.

Mr. G. believed he might go as far as to say, that this section was not inserted to meet the case spoken of by the gentleman from Maryland; but for the admission of one which had been the subject of discussion in the newspapers for some time past. He meant what was generally understood by the mission of Toussaint, a black general, of St. Domingo. It had been asserted, from the moment of the arrival of a supposed agent, that he came here with the late consul of the United States at that port; that he brought dispatches from Toussaint to our government. Farther than this we have seen in some of the newspapers printed at the eastward, that this mission is likely to have some effect; we have seen it there stated, "that the President is neither rash nor diffident, and that good effects may be expected to flow from this mission." So far on the authority of the public newspapers, and none of these assertions have been denied.

Should I be doing right, said Mr. G. to say, that I believe that this section of the bill is an effect of that negotiation? It is true I only deduce this from probability, but the probability is strong. Mr. G. said he knew that the independence of St. Domingo had been a favorite theme with gentlemen, and they had made an appeal upon it to the avarice of the people of the United States, and that, during a time of peace, the minds of the people ought to be prepared for this event. But gentlemen seem to think that the public mind is not yet ready for this change, or they do not chuse to avow the object of this mission. Which, he could not tell; but he would ad-

to those gentlemen who have received information on this subject to communicate it. Mr. G. said he should be happy to know the subject of the dispatches of Gen. Toussaint. What is his offer to our government? Whether his ideas go to independence or not? Whether he is any way connected with the British government or not? Whether the sudden and extraordinary evacuation of St. Domingo by General Maitland, was to promote something of this kind, or to support the force of General Toussaint? He should wish to know what is the disposition of the Executive with respect to this business, so far as it shall have come to the knowledge of these gentlemen? He would also be glad to know the disposition of this agent, or the nature of his object, at least so much of it as may have escaped at any *petit soupe*, or *dinne*, at which these gentlemen may have been parties? If any such information could be obtained, it might tend to throw some light upon the subject. If he should be mistaken in his views of it, it would be wholly owing to his being deprived of that information, which he believed either the Executive, or some of the members on this floor possess.

Mr. G. believed the object of this section is to give encouragement to the black general in his present views. A single sentiment had dropped from the gentleman from Massachusetts, (Mr. Otis) in the course of debate, which had given rise to part of what he had said on this subject, and which led him to believe that he had some information which he ought to communicate. He said "if St. Domingo should finally be independent, it was proper to cultivate a good understanding with that island at present, and not refuse" — what? "to hold out certain encouragements to them in such an event." When? Now; so that we are not only to cultivate a good understanding with St. Domingo, if it should become independent, but in the expectation of it, and before it takes place, it is proper to cultivate a good understanding with that island, by holding out the encouragement proposed by this bill. This was nothing less than to confess, that this section is inserted in the bill to encourage Toussaint to declare the island independent. Nay, his views, if he is a man of sense, must go farther; he must not only secure a temporary trade, but he would also desire to know whether it be the wish of his country that St. Domingo should become independent; because he should suppose that if the government of the United States was opposed to such an event, a temporary trade would not be a sufficient inducement for him to throw off his present allegiance.

To me, however, said Mr. G. if it be the intention of the General to declare it, the independence of St. Domingo is a very problematical event. It would certainly be the interest of Great Britain to oppose an attempt of this kind; since it could not be her interest to have a black government there. But supposing the event possible, he should consider it as extremely injurious to the interest of the United States. Suppose that island, with its present population, under present circumstances, should become an independent state.

What is this population? It is known to exist almost altogether, of slaves just emancipated, of men who received their first education under the lash of the whip, and who have been initiated to liberty only by that series of rapine, pillage and massacre that have laid waste and deluged that island in blood; of men who, if left to themselves, if altogether independent, are by no means likely to apply themselves to the peaceable cultivation of the country, but will try to continue to live as heretofore, by plunder and depredations. No man, said Mr. G. wishes more than I do to see an abolition of slavery when it can be properly effected; but no man would be more unwilling than I to constitute a whole nation of freed slaves, who had arrived to the age of thirty years, and thus to throw so many wild tygers on society. If the population of St. Domingo can remain free in that island, he had no objection; but however free, he did not wish to have them independent, and he would rather see them under a government that would be likely to keep them where they are, and prevent them from committing depredations out of the island. But if they were left to govern themselves, they might become more troublesome to us, in our commerce to the West Indies, than the Algerines ever were in the Mediterranean; they might also become dangerous neighbors to the southern states, and an asylum for renegadoes from those parts.

This being the case, Mr. G. said, he must deprecate every encouragement which may be held out to produce such an event. Did not gentlemen recollect what an alarm was sounded last year, with respect to the probability of an invasion of the southern states from the West Indies, an alarm upon which some of the strongest measures of the last session were grounded. Mr. G. could not help hoping there would be a general wish not to take any measure which may embody so dangerous a description of men in our neighborhood, whose object may be to plunder, and who might visit the states of South Carolina and Georgia, and spread their views amongst the negro people there, and excite dangerous insurrections amongst them. He did not wish, therefore, to see this black population independent; and that the interest will be wholly black is clear.—The general is black, and his agent here married a black woman in this city. Mr. G. did not mean by this to throw any reflection upon the general. He believed that he had behaved well to Americans. His remarks were general, and were only intended to shew that it would be with a black population we must treat.

But Mr. G. believed a conduct of this kind would have the effect to remove to an immense distance any expectation of an accommodation of our disputes with France. We have, continued he, just had dispatches laid upon our table from Mr. Gerry, one of our late commissioners to the French Republic, by which we are told that he believes there exists in that government a sincere desire to treat with us. Since those dispatches were communicated, it is true that the secretary of state has sent us a report, in which he endeavors to

prove the deduction of Mr. Gerry unfounded. Be it so. At least he believed, without entering into an examination of the dispatches, or the secretary of state's reasoning upon them, it must be allowed that appearances are more favorable at present than they were nine months ago. The disasters which had happened to the fleets of France, her want of success in other parts, the determined tone assumed by all the neutral powers, and other occurrences, have rendered it more the interest of France to treat with us than it was nine months ago. So that the prospect is rather better of an honorable accommodation of our differences.

Whilst things are thus situated and after we have made a declaration, by echoing the sentiment contained in the President's speech respecting the rights of embassy, that we are still ready to treat on honorable terms; it would in his opinion, be highly impolitic to change our ground, and take the most offensive, a ground that will shew our desire for war, and not only for war but a war of extermination; for no measure could be taken which could affect a nation in a more lively manner, than an attempt to detach from a nation its colonies, by giving an encouragement to insurrection. Even, said Mr. G. if we were obliged to go to war with France, it would be impolitic to take a step of this kind. Every war must be terminated by a treaty; and we shall be able to obtain better conditions if a project like this be not attempted; and, in case the attempt at independence by the island should not succeed, we should cut up by the roots a branch of the most advantageous part of the commerce forever. In his opinion we ought neither to recede from the ground taken, nor take new ground, but let our measures whatever they are, be such as are calculated to affect the nation altogether, and not any particular part of it. He hoped therefore the section would be struck out.

The committee rose, and had leave to sit again.

Adjourned.

Wednesday, January 23.

A report of the committee of claims on the petition of Garret Putnam, was made by Mr. D. Foster, against the prayer of the petitioner, and concurred in by the house.

A petition of sundry merchants was presented by Mr. Sewall, and referred to the committee of commerce.

Mr. Waln presented a petition from the trustees of the Library companies of Philadelphia and Baltimore, praying exemption from duty on imported books. Referred to the committee of commerce.

A Bill from the committee of commerce and manufactures was reported by Mr. S. Smith, respecting quarantine and health laws:— which was committed to the whole house; as was also,

A bill, reported from the Naval committee, by Mr. Josiah Parker, for the government of the Navy of the United States.

Mr. S. Smith laid on the table the following resolution:

That the committee of ways and means be instructed to report a

bill to augment the salaries of the officers employed in the executive departments of the United States.

An engrossed bill for the relief and assistance of sick and destitute Seamen in foreign countries, was read and passed.

The house took up the message from the Senate, adhering to their amendment of the enumeration bill, and on motion of Mr. Macon, it was carried not to recede from their disagreement to the Senate's amendment. So that the bill will be lost.

Mr. Harper observed that great frauds had arisen owing to the form of the protections given to our seamen, in consequence of which they in many instances became of no value, as the case of obtaining false protections had taken all the credit from just ones, and therefore he moved,

That a committee be appointed to report whether any, and what alterations may be necessary in the act for the relief and protection of American Seamen.

Three members were appointed.

The house again went into a committee on the bill further to suspend our commercial intercourse with France, and Mr. Nicholas's motion to strike out the first section, being still under consideration,

Mr. Sewall said, this bill was far the greater part of it nearly a renewal of the old law, which expires on the 4th March next; and the arguments used in support of the present motion go rather to an abandonment of the law as now in force, than to shew the propriety of striking out the section. This opinion would be justified, he thought, by taking a view of those clauses of the law which may be considered as aimed at by these arguments. To what does the present law, said Mr. S. relate? Our citizens are prohibited from going to certain places with their commerce, viz., to the territory of the French Republic, to the dependencies thereof, to the W. Indies, or elsewhere, under the acknowledged government of France. Our vessels are, therefore, only prevented from going to places under the authority of the French Republic. The gentleman from Pennsylvania has endeavored to shew that by "the territory of the French Republic or the dependencies thereof," are included all the actual possessions of France; and that by, "or to any place in the West Indies, or elsewhere under the acknowledged government of France," are meant places which might come into their possession in the course of the war. He therefore supposes that though a part of the French West-India islands should be conquered, and go into other hands, still our intercourse with them would be prohibited by this law. This idea, Mr. S. said, could not be considered as having any foundation, since the law was intended to operate against the French only. Suppose, said Mr. S. a merchant sends his vessel to the West-Indies, at a time he supposes Guadaloupe to belong to the French, but when the vessel arrives there it is found that Guadaloupe is in possession of Great Britain. In such case, the vessel may safely enter that port; though if it had remained in the hands of the French, and she had gone in, she would have been liable to the penalties of the law. Mr. S. could not see any difference betwixt this case, and

a place changing its own government. The aim of this law, not being to injure our own citizens by depriving them of this trade, but because, in prosecuting that commerce, the French Republic have gained the advantages of it, instead of our citizens. This construction of the act, laid Mr. S. is further confirmed, by considering the words, "or shall be employed in any traffic or commerce with or for any person resident within the jurisdiction, or under the authority of the French Republic." If one of the French islands shall declare itself independent, any person residing there could not be said to "reside under the jurisdiction or authority of the French Republic." Let us consider a question to arise betwixt two citizens of the U. States. Suppose one of our vessels comes from an island which has been conquered from the French, and is seized as coming from a French island, would it not be competent for the owner to shew that though the island from which he sailed had been a member of France, it was not now so? Such a defence would certainly be complete. Therefore all the observations of the gentleman from Pennsylvania apply to the law as it now stands, and not in support of this motion. The gentleman says he is now unwilling to change the state of things which he was always opposed to; but he certainly argues in support of a change favorable to France, in relation to her colonies. Mr. S. acknowledged we ought not to encourage rebellion in the colonies of any foreign power; but our merchants, in prosecuting their commerce, have nothing to do with the political situation of the enemy to which they go.

Considering this bill, therefore, as a mere commercial regulation, and justified so far as the law goes, Mr. S. could not admit the arguments of the gentleman from Pennsylvania to have any weight.—Mr. S. said he would adduce authorities to the committee to shew, that every nation is perfectly free with respect to their commerce, though it seemed strange there should be occasion for proof in so clear a case. He should also shew that where there is a rebellion in a colony against the mother country, it does not change the ground with respect to commerce, but that a nation has a perfect right to trade there, if she thinks it expedient. In passing the law, Mr. S. said, Congress might have exceptions in favor of any part of the possessions of France; and we are now proposing, not to except any particular part by name, but to declare a condition upon which we will open a trade with any part thereof, and certainly if the restraint can be laid altogether it can be modified as we please.

[Mr. S. read extracts from Vattel in support of his opinions.]

The gentleman from Pennsylvania had made some objections to this doctrine on a more general ground. Upon the possibility of a change of our conduct with respect to our commerce, having an effect upon some of the possessions of France; and has said that in case of our going to any port or place in rebellion against its government, it will be to desert our former principles, and give the lie to all our former declarations against the French on account of their attempts every where to divide the people from their governments.

It would be difficult to shew, Mr. S. said, how our carrying on

our commerce with any country, was an attempt to divide the people from their government. The gentleman has supposed, what is foreign to this bill, that a treaty is in agitation with general Toussaint, and that a missionary is here with whom the treaty is to be concluded. The gentleman had evidently introduced this subject to pass a slur on the councils of this country. This bill cannot produce such a treaty. The only object of this bill is, to give the President power, when he finds any particular colony has changed its conduct with respect to us, to open our commerce with that place, without affecting in any respect the political relations between the two countries.

It was well known, Mr. S. said, that the situation of the French possessions is very uncertain, the mother country having in a great degree forsaken them. They have no military force there; they are therefore supported by themselves and their own force. It is true there is still a nominal acknowledgment of dependence on the mother country; but the governors of the islands have frequently contravened the decrees of the mother country; or when inconvenient they have changed them, and acted independently of any other authority. Under these circumstances, it might well become a question with the governors in the West-Indies, whether they will change their conduct towards us, by restraining their privateers, and preventing American vessels from being condemned in their ports, in order to receive the benefits of our commerce. We might then open our intercourse with such islands being delivered from the mischiefs which gave rise to the suspension, especially since this commerce, as the gentleman from Pennsylvania has acknowledged, is of all others, the most beneficial to this country.

Mr. S. had heard no objection to this power being placed in the President. Great advantages will be derived from placing it there. During the long recess of Congress great changes may take place—changes which may make it beneficial for the people of the United States to have the intercourse opened. We know also, said Mr. S. that in Spain and some other countries, privateers are encouraged; and if this encouragement should continue, it will be highly expedient that the suspension of intercourse should be extended to those countries, which might be done in the recess, without waiting for an extraordinary call of Congress.

Without enlarging further on the subject the bill appeared to Mr. S. very necessary at present, and it would be proper in his opinion, to retain the section.

Mr. S. Smith said, that if he thought with the gentleman from Pennsylvania, that the clause under consideration was connected with the mission from Toussaint, and the separation of Hispaniola from France, or with an intention of dividing the people of that island from their government, he should also be opposed to it; but believing, as he did, that it would be productive of none but good effects to this country, he was in favor of retaining the clause.

It might be well, said Mr. S. to take a view of the relations which had subsisted between France and her colonies for some years back. Early in the revolution, Santhonax and Polverel were sent as com-

mitioners to Hispaniola, for the purpose of governing the island, and to carry into effect the decree of the French government for liberating the slaves. They conducted themselves in a friendly manner towards America, but destructively to the northern part of Hispaniola, and particularly towards Cape Francois. The disastrous contest which took place betwixt the whites and blacks, to the destruction of the former, is well known. From the abuse of their power, these commissioners were recalled. Polverel had not sufficient courage to appear before the French government, and put an end to his existence. Santhonax went to France, and was sent out again to the island. Still he was favorable to this country, until the decree of France which declared, that their vessels of war should treat neutral vessels in the same manner as neutral powers suffered Great Britain to treat them. Santhonax then issued his decree of December, 1797, and American vessels were taken and carried into Hispaniola indiscriminately, and unsuspectingly, not under the authority of France, but under the authority of this agent. Not content with this abuse of his power, Santhonax sent Desforneaux, the commissioner of Guadalupe, to the south side of Hispaniola, to carry his plans into effect there; but Rigaud, a man of color, and an honest man, who had gained the esteem of the people, who was in power there, frustrated the attempt. Desforneaux attempted to escape, but was taken and sent to France.

We see, therefore, that Santhonax made no scruple to set aside the decrees of France; and in this manner has Rigaud ever done, repealing and preventing the execution of the decrees of France, whenever he disliked them. And was Rigaud punished by France for thus exercising his power, or not? No, he was made Commander in Chief of the south side of the island, for having sent off Desforneaux. Hedouville succeeded Santhonax in the government, and brought with him the power to execute or not, as he judged proper, the decree of the Directory directing the capture of neutral vessels with British manufactures on board. He determined that this decree should not be carried into effect against vessels bound to Hispaniola. Did he carry his purpose into effect? So far as his (Mr. S's) information went, he did. Here then we see Hedouville setting aside the decree of France; and Rigaud has not only prevented American vessels from being condemned, but has thrown the captains of privateers into prison for daring to bring in American vessels, and has caused such as have been carried into Jacquemel, on account of not having a role d'equipage, to be delivered up immediately. Victor Hugues, upon the recall of Mr. Adet, ordered all vessels carrying on trade to what he called rebel ports, should be brought in and made legal prizes of. This was another separate authority. He afterwards issued orders for the condemnation of vessels coming into Guadalupe with a supercargo, who should either be an Irishman or a Scotchman, though they had every necessary paper on board to shew that they were bound to that port, and vessels were condemned for this alone, and this is not seen in any

of the decrees of France. Mr. S. understood this clause as intended to meet cases of this kind; and so far from this being offensive to France, it must be quite the reverse.—Under this law, said Mr. S., the President will be enabled to say to those special agents, "if you will suspend your decrees with respect to your islands, our trade shall be opened with you," and by this means give to our citizens a commerce which is a mine of gold to them. Such a conduct he thought, must appear to every one perfectly reasonable.

The gentleman from Pennsylvania says, that the independence of Hispaniola would be dangerous to the southern states. But does this bill, said Mr. S., contemplate any such thing? Does it not say that the agents must be under the government of France? If the island were to declare itself independent, we could not, said he, prevent our merchants from trading with it; or if it should be in a state of rebellion, they would trade with it at all risks, without coming under this act. This bill seems, instead of encouraging the independence of the island, to place an obstacle in the way of it.—It promises to the commanding officer the trade of this country, so long as he remains attached to France, and forbears to depredate upon our commerce; but the moment he declares himself independent, that promise is no longer binding.

Certain words in this clause are complained of; and Mr. S. owned he did not like them himself. He meant the words "I shall clearly disavow"—and if this motion should not prevail, he would move to strike them out. He should be satisfied if the islands refrained from depredating upon our trade, without making any disavowal. Mr. S. said, he could by no means bring his mind to believe, that this clause could give encouragement to the people of Hispaniola to revolt against their country. Toussaint, said he, is not the only Governor of that island. Rigaud, who, as he had already stated, is a man of color and of excellent character, who has great hold of the affections of the people, and whose attachments are also strong to the French government, has also a considerable share of authority; and Toussaint, in his opinion, would not, on this account, dare to declare the island independent.

But, said Mr. S. suppose this independence were to take place, would all the danger to this country actually take place which has been stated? In his opinion the reverse would be true. Refuse to these people our commerce, and the provisions of which they stand in need, and you compel them to become pirates, and dangerous neighbors to the southern states; but, so long as you supply them, they will turn their attention to the cultivation of their plantations. If, on the contrary, they once get a taste for plunder, they will never settle to labor.

Mr. S. observed that it was the other day said that truth was the characteristic of the federal party. It might be so, though he had found it otherwise; but the characteristic of party, he observed, always is detraction, suspicion and jealousy, whether it be called this

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Mr. McDowell said, though he acknowledged it to be important that the office of supervisor should be filled by men of integrity, yet he thought it would be impolitic and improper to increase their emoluments in any material degree at present. So far as he was acquainted, the salaries of these officers had been found adequate. Last year an allowance of clerk hire had been made, and he thought four per cent. on the stamp duties would be too great an addition to their present emoluments.

The motion on filling the blank with four per cent. was carried, 40 to 38, that for allowing a commission to them on money received from the collectors, with 1 per cent. and that for compensating the inspectors of surveys, with 1 1-2 per cent. An amendment was also agreed to, excluding bonds from the operation of the clause in favor of 60 day notes; and another making allowance for defaced stamps. The committee had leave to sit again.

On motion of Mr. Kittera, a committee was appointed to consider whether any and what amendments are necessary in the law for the sale of the United States lands North West of the Ohio.

A report was laid before the house from the Treasury Department, respecting the value of goods imported into the U. States.

Thursday, January 31.

Sundry petitions were presented this day.—The house resolved itself into a committee of the whole, on the bill to amend the stamp act.*

The President informed the house by his secretary, that he had approved and signed the act for the punishment of certain crimes therein specified.

Report of the Director of the Mint.

To the President of the United States of America.

THE Director of the Mint thinks it his duty to renew his annual report, on the state of the business committed to his superintendance, for the information of government.

With pleasure he refers the President to the inclosed returns of issues of the several species of coin from the mint, since the first of January, 1798; during which time the coinage has been stopped near three months, occasioned by the late calamitous fever, and the decay of some of the machinery. Yet by these returns, it will appear that the coinage of gold amounts in value to 205,610 dollars,—that of silver to 330,291 dollars,—and that of copper to 9,797 dollars—in the whole amounting to 545,698 dollars, exceeding in

* The Philadelphia papers which the editor principally copies from, by mistake, confused these proceedings with the business of the 17th January.—The reader is requested to turn to page 337.

value nearly double what has ever been coined at the mint in any one preceding year, and increases the whole amount of the coinage, since the commencement of the business in October, 1794, to 483, 245 dollars, in gold; 792,643 dollars and 75 cents, in silver; and 41,004 dollars and 74 cents in copper, amounting in the whole to 1,316,893 dollars and 49 cents.

From information the director has received, he has no doubt but there will be a full supply of silver bullion for the ensuing year, as the present establishment of the mint, and the frequent deposits of gold, give him encouragement to suppose a proportionate supply of that precious metal will be kept up. The present arrangement with regard to copper coin, will enable the Director, during the course of the next summer, to supply any demand that is likely to be made for cents; and at present there are a considerable number on hand.

The director cannot, with propriety, close this report, without mentioning, that during the last summer, a scheme was discovered for robbing the mint, by persons out of it, in concert with one person employed in the mint; and although the offenders have been detected, prosecuted and punished, yet it fully justifies the observations heretofore offered to the President, on the unprotected state of the mint, to which the director begs leave to refer.

All which is respectfully submitted to the President.

ELIAS BOUDINOT, Director.

Mint of the United States, Jan. 3d, 1799.
Statement of the Coinage at the Mint of the United States, for
the year 1798.

GOLD COINS.

7,974 Eagles,	Dollars.	79,740
24,867 Half Eagles,	Dollars.	124,335
614 Quarter Eagles,	Dollars.	1,535
		205,610

SILVER COINS.

327,536 Dollars,	Dollars.	327,536
27,550 Dimes,	Dollars.	2,755
		330,291

COPPER COIN.

979,700 Cents,	Dollars.	9,797
	Dollars.	545,698

Mint of the U. States, Treasurer's Office, Jan. 3d, 1799.

BENJAMIN RUSH.

A bill from the Senate for the relief of Thomas Lewis was read and committed.

Friday, February 1.

Mr. Josiah Parker, from the navy committee, reported the following bills, viz.

A bill for augmenting the navy, and fixing the pay of captains of ships or vessels of war.

A bill authorising the establishment of docks, and

A bill authorising the purchase of timber for naval purposes.

These bills were severally twice read and committed.

Mr. Rutledge, from the committee to whom was referred a resolution proposing to make an extra allowance to the serjeant at arms, on account of his sickness during the last session, reported a bill for his relief, which was committed.

The bill to alter the stamp duty imposed on foreign bills of exchange, and bills of lading, and further to amend the stamp act, was read the third time, and the blanks being filled, was passed. This act is to take place after the 31st day of March next.

On motion of Mr. Baldwin, the house resolved itself into a committee of the whole on the report of a select committee on the petition and remonstrance of the legislature of Georgia; and the resolution reported by that committee being under consideration, its adoption was opposed principally by Mr. Allen. Mr. Nicholas tho' the following resolution would be less exceptionable than the one reported, and it was agreed to, 55 votes being in its favor.

"Resolved that provision ought to be made by law for complying with such treaty as the President of the United States may think proper to make with the Creek Indians, and for obtaining possession in behalf of the State of Georgia, of the lands lying within the county of Tallasse, or other lands on the frontier of the said state, which may be deemed equivalent thereto, and that 'dollars be appropriated therefor.'

The committee rose, and after some further remarks from Mr. Allen, the resolution was concurred in, 59 votes being in its favor. It was then referred to the select committee to report a bill.

Mr. S. Smith from the committee of commerce, reported a bill to regulate the collection of duties on impost and tonnage, which was committed.

On motion of Mr. S. Smith, the house went into a committee of the whole on the bill to amend the act to provide for the valuation of land and dwelling-houses, and the enumeration of slaves within the United States. The first clause of this bill authorises the Secretary of the Treasury to augment, in cases where he may find it necessary, the compensations fixed for principal and assistant assessors by the present law, so that no principal or assistant assessor, shall, in any case, receive more than two dollars per day, exclusive of an allowance also made in the second section of this bill, for clerk hire to the principal assessor, of one dollar per day.

On enquiry, it appeared that the principal assessors have, by the law as it now stands, 1 1-2 dollar per day allowed them; and the other assessors 1 1-2 dollar whilst collecting, and 1 dollar when otherwise employed.

This bill advancing the pay of the assessors, originates from complaints from the state of Maryland, that persons cannot be got to perform the office for the sum allowed, and that, in consequence, in

many parts of that state, no steps have been taken to carry this law into execution. This fact was stated by Messrs. S. Smith, Craik, Sprigg, and Matthews, representatives from that state.

Mr. S. Smith moved to strike out two dollars for the purpose of inserting three; but this motion was superceded by one made by Mr. Varnum, to strike out the first section of the bill.

He thought the present allowance quite sufficient, and rather more than enough; that no complaint has been made from any other part of the union; that he could not agree to allow the Secretary of the Treasury a power to pay the officers of Maryland more than is paid to the same officers in other parts of the union, and he could not consent to raise the pay of the whole, when they are, except in the cases mentioned, perfectly satisfied with what is now allowed. Mr. V. saw no necessity for clerk hire; if a clerk were to be allowed, the office of principal assessors, he said, would become a sinecure; that nothing would make the tax so unpopular as thus to increase the expence of collection, and that out of two millions of dollars raised, not more than one million would find its way into the treasury. This opinion was supported generally by Messrs. Venable, M'Dowell, Shepard, J. Williams, Thatcher, I. Claiborne, and Findley.

The necessity of the increase was advocated by Messrs. S. Smith, Gordon, Craik, Pinckney, Harper, and Otis, as absolutely necessary if the tax was to be collected in Maryland; that it would not be necessary to advance the pay of the officers in any other parts of the union, but that owing to the extent of the districts in Maryland, and from other causes, persons could not be induced to perform this duty without the proposed advance.

After a great deal of conversation on the subject, the motion for striking out the section, was negatived, 45 to 41.—The committee rose, and had leave to sit again. The house adjourned to Monday.

IN SENATE.

A bill has been brought into the Senate for giving eventual authority to the President of the United States to augment the army in case war shall break out between the United States and a Foreign European power, or in case imminent danger of invasion of their territory by any such power, shall in his opinion be discovered to exist, by raising, in addition to the other military force of the United States, twenty-four regiments of infantry, a regiment and a battalion of riflemen, a battalion of artillerists and engineers, and three regiments of cavalry, or such portion thereof as he shall judge necessary.

By this bill the President is also authorised to organize all such companies of volunteers as have been or shall be accepted by him, pursuant to the act entitled "An act authorising the President of the United States to raise a provisional army," into regiments, brigades, and divisions, and to appoint all officers thereof agreeably to the organization prescribed by law for the army of the United

States; and to cause the said volunteers to assemble and exercise and discipline within the States of which they may respectively be, for any time or times not exceeding in the whole days in one year, and that when so assembled, they shall receive the same compensations as are by law allowed to other troops of the United States; and it is provided that two millions of dollars shall be appropriated towards the execution of this act, and that the President be authorised to borrow on behalf of the United States the said sum, or so much thereof as he shall deem necessary (which the bank of the United States is hereby empowered to lend) and upon such terms and conditions as he shall judge most advantageous to the U. States; provided that such terms and conditions shall not restrain the United States from paying off the sums which may be borrowed, after the expiration of fifteen years.

Monday, February 4.

Mr. Harper from the committee of ways and means, made the following report, viz.

A new bill for regulating the compensation of clerks;

A bill making additional compensation for the year 1799, to certain officers of the Senate and House of Representatives of the United States; and

A bill making appropriations for the support of the Navy Establishment for the year 1799;

Which bills were severally twice read and committed.

Mr. Harper also moved for the appointment of an additional member to the committee of ways and means, in the place of Mr. N. Smith, absent on leave. Agreed.

Mr. M'Clenahan presented a petition and remonstrance from 1210 inhabitants of the county of Philadelphia, praying for a repeal of the Alien and Sedition Laws, which they deem unconstitutional. Referred as usual.

Mr. D. Foster, from the committee of claims, made a favorable report on the memorial of Moses White, an Aid-de-Camp to one of our General Officers during the war, which was read and committed.

Mr. Pinckney moved that a committee be appointed to enquire whether any and what amendments are necessary in the act for the relief of sick and disabled seamen, and that they have power to report by bill or otherwise. He said, there is a provision in the present law, directing that all the money collected within a district shall be expended within the same, in carrying which into effect inconvenience has been experienced, from the smallness of the districts under the revenue system. It would be necessary, therefore, either to repeal that provision, or enlarge the districts. Some doubt also existed, whether seamen of the navy are admissible into the hospitals to be provided under this law. He hoped therefore a committee would be appointed. Agreed.

The house again resolved itself into a committee of the whole on the bill to amend the act for valuing the land and dwelling houses of the United States, and for the enumeration of slaves ; when

Mr. S. Smith moved to strike out two for the purpose of inserting three, making the allowance to the assessor three dollars.

Mr. Craik seconded the motion. He believed that without that allowance no tax could be collected in the State of Maryland, since no part of the tax could be laid until all the assessments are made.— Mr. C. believed the allowance was thought too small in other parts of the Union also.

Mr. Nicholas had hoped the gentleman from Maryland would have been satisfied with double the allowance for the assessors in Maryland, that is allowed to any other.

Mr. M'Dowell spoke also against the allowance.

Mr. Waln was in favor of the advance, he believed the present pay too small, and that the assessors in this city had undertaken the business more from personal respect to the commissioner, than for any other reason. If this was agreed to, he should be for dispensing with the clerk provided by the next section for the principal assessor.

Mr. Gallatin said, he voted against the striking out of this section, not because he thought the present allowance too small, but because he knew the fact that the assessments are not made in certain parts of Maryland, and that the tax cannot be laid until the whole of the assessments are made. He therefore saw the necessity of making some advance. He was, however, altogether against this amendment. It appeared very mysterious to him, that though assessors were readily found to do the business for the sum allowed, in those parts of Pennsylvania and Virginia which are only separated from these districts of Maryland by an arbitrary line, persons cannot be obtained to do the business there. As to what his colleague (Mr. Waln) had stated, of assessors having undertaken the business in this city, principally out of personal respect to the commissioner, he could scarcely think that was the case ; since for doing the same kind of business, the state only pays its officers one dollar a day, and he never heard of any want of persons to fill the places. The county commissioner, whose duty is the same with that of the principal assessor, receives from the state of Pennsylvania 1 1/2 dollar. In voting against striking out this section, he proposed to introduce an amendment, providing that the additional compensation shall not be made to any person who has at present accepted the office.

Mr. S. Smith said, the fact which had been stated, might appear less mysterious to the gentleman from Pennsylvania, when he informed the committee, that about two years ago, the state of Maryland passed a law for levying a direct tax, and allowed to the assessors of each district 106 dollars ; and though this business was simple, and the present assessment complex, only 45 dollars are here allowed. Another reason, in the State of Maryland, no other person

employed by the State in its assessments, can undertake the same business for the United States. He supposed these the principal reasons for the existing difference betwixt this State and others.

On suggestion of Mr. Gordon that the question had best be first taken on striking out, it was agreed to be so taken.

On the question being put to strike out two, it was negatived, 47 to 34.

Mr. Gallatin then moved to introduce the following words into the section, "in order to procure principal assessors where the same may not have been appointed."

This motion was supported by Messrs. Harper, J. Williams, Macon, and Venable; and opposed by Messrs. Thatcher, Matthews, and S. Smith.

It was negatived, 19 votes only being for it.

Mr. T. Claiborne moved to make the advance general throughout the United States. He wished to have no discretion anywhere on this subject, but in Congress.

Only five votes were in favor of this motion.

Mr. Thatcher saw no necessity for the second section, which provided a clerk for the principal assessor; if a man could read and write, he said, he might certainly do the business of this office without a clerk.

The motion was carried, 59 votes being in its favor.

The third section then came under consideration, which went to repeal so much of the present act as makes it necessary to take an account of the windows in dwelling-houses.

Mr. Waln wished to propose an amendment to this section. He thought there are other parts of the ninth section of the present law which might very well be dispensed with, as they tended only to make the law disagreeable in its execution, in the same way that numbering the windows had given people an idea that a window tax was in contemplation. The only reason which he had heard given for these details, was, that they were to enable commissioners to form an idea of the value of houses; but he thought this reason insufficient, as he did not believe any just opinion of the value of houses could be formed without a personal view of them. The Secretary of the Treasury, in his letter to the Chairman of the Committee of ways and means, seems to hold out this idea. Mr. W. moved that the section read as follows: "that so much of the said act as requires the assessors to take the number and description of the windows of dwelling-houses, and of the exact dimensions or area of the dwelling-houses, or other buildings, shall be and the same is hereby repealed; and it shall be the duty of assessors to require such a general description of dwelling-houses and other buildings, as they may deem necessary.

The amendment was supported by Mr. Bayard and Mr. J. Williams; and opposed by Messrs. Harper, Gordon, Nicholas, and Reed.

On suggestion of Mr. Nicholas, that the words printed in italics were more objectionable than the present law could be, Mr. Waln withdrew them.

The question was then taken on the amendment, and it was negatived, 22 votes only being for it.

On motion of Mr. Harper, a new section was added to the bill giving a power to the commissioners to extend the time of receiving appeals by the principal assessor.

The committee then rose, and the house took up the amendment.

Mr. Waln moved an amendment to repeal that part of the present law, which requires appeals to be made in WRITING, which he said was found inconvenient in some parts of the State. Carried, 35 to 26.

Mr. Varnum then moved to strike out the first section of the bill (which makes the increase of pay to assessors) and called the yeas and nays upon it.

Mr. Nicholas said, he should vote against striking out this section, in hopes that an amendment something like that which the gentleman from Pennsylvania proposed in the committee of the whole, would be adopted; but, if such an amendment was not agreed to, he would finally vote against the passing of the bill.

The yeas and nays were taken as follows:

YEAS. Mess. W. Claiborne, Clay, Clepton, Davis, Dawson, Eggleston, Elmendorf, Findley, Fowler, Gregg, Grove, Harrilon, Davens, Heister, Holmes, Jones, Livingston, Locke, Lyman, Macbir, Macon, M'Clenachan, M'Dowell, New, Shepard, Skinner, W. Smith, Stanfeld, Sumpter, Thatcher, Thomson, A. Trigg, J. Trigg, Van Aken, Van Cortlandt, Varnum, Venable, J. Williams, R. Williams.

NAYS. Mess. Baer, Bayard, Blount, Brace, Brooks, Champlin, Cochran, Craik, Dana, Dennis, Dent, Edmond, Evans, A. Foster, D. Foster, Gallatin, Gillespie, Glen, Goodrich, Gordon, Griswold, Hanna, Harper, Hartley, Hindman, Imlay, Matthews, Morris, Nicholas, Ovis, L. Parker, J. Parker, Pinckney, Reed, Rutledge, Schureman, Sewall, Sennickion, S. Smith, Spaight, Sprague, Sprig, Thomas, Wadsworth, Waln.

The first section being left out, the remainder of the bill underwent the necessary alteration, in point of form, and then it was ordered to be engrossed for a third reading.

On motion of Mr. Harper, the house resolved itself into a committee of the whole on the amendments of the Senate to the bill respecting certain balances due from the several States to the United States. The amendments were, first, that the time of erecting fortifications should be confined to five years; second, that ceiling should be made of the territory on which any such fortifications should be built.

Mr. Bayard moved to amend the first by adding, "or in the erection of piers for the protection and improvement of any port or harbour in the United States."—This motion was negatived, 46 votes only being for it.

Mr. McDowell said, though he acknowledged it to be important that the office of supervisor should be filled by men of integrity, yet he thought it would be impolitic and improper to increase their emoluments in any material degree at present. So far as he was acquainted, the salaries of these officers had been found adequate. Last year an allowance of clerk hire had been made, and he thought four per cent. on the stamp duties would be too great an addition to their present emoluments.

The motion on filling the blank with four per cent. was carried, 40 to 38, that for allowing a commission to them on money received from the collectors, with 1 per cent. and that for compensating the inspectors of surveys, with 11.2 per cent. An amendment was also agreed to, excluding bonds from the operation of the clause in favor of 60 day notes; and another making allowance for defaced stamps. The committee had leave to sit again.

On motion of Mr. Kittera, a committee was appointed to consider whether any and what amendments are necessary in the law for the sale of the United States lands North West of the Ohio.

A report was laid before the house from the Treasury Department, respecting the value of goods imported into the U. S.

Thursday, January 31.

Sundry petitions were presented this day.—The house resolved itself into a committee of the whole, on the bill to amend the stamp act.*

The President informed the house by his secretary, that he had approved and signed the act for the punishment of certain crimes therein specified.

Report of the Director of the Mint.
To the President of the United States of America.

THE Director of the Mint thinks it his duty to renew his annual report, on the state of the business committed to his superintendance, for the information of government.

With pleasure he refers the President to the inclosed returns of issues of the several species of coin from the mint, since the first of January, 1798; during which time the coinage has been stopped near three months, occasioned by the late calamitous fever, and the decay of some of the machinery. Yet by these returns, it will appear that the coinage of gold amounts in value to 205,610 dollars,—that of silver to 330,391 dollars,—and that of copper to 9,797 dollars.—In the whole amounting to 545,698 dollars, exceeding in

* The Philadelphia papers which the editor principally copies from, by mistake, confounded these proceedings with the business of the 17th January.—The reader is requested to turn to page 337.

value nearly double what has ever been coined at the mint in any one preceding year, and increases the whole amount of the coinage, since the commencement of the business in October, 1794, to 483, 245 dollars, in gold; 792,643 dollars and 75 cents, in silver; and 43,004 dollars and 74 cents in copper, amounting in the whole to 1,316,893 dollars and 49 cents.

From information the director has received, he has no doubt but there will be a full supply of silver bullion for the ensuing year, as the present establishment of the mint, and the frequent deposits of gold, give him encouragement to suppose a proportionate supply of that precious metal will be kept up. The present arrangement with regard to copper coin, will enable the Director, during the course of the next summer, to supply any demand that is likely to be made for cents; and at present there are a considerable number on hand.

The director cannot, with propriety, close this report, without mentioning, that during the last summer, a scheme was discovered for robbing the mint, by persons out of it, in concert with one person employed in the mint; and although the offenders have been detected, prosecuted and punished, yet it fully justifies the observations heretofore offered to the President, on the unprotected state of the mint, to which the director begs leave to refer.

All which is respectfully submitted to the President.

ELIAS BOUDINOT, Director.

Mint of the United States, Jan. 3d, 1799.
Statement of the Coinage at the Mint of the United States, for
the year 1798.

GOLD COINS.

7,974 Eagles,	Dolls.	79,740
24,867 Half Eagles,		124,335
614 Quarter Eagles,		1,535
		205,610

SILVER COINS.

327,536 Dollars,	Dolls.	327,536
27,550 Dimes,		2,755
		330,291

COPPER COIN.

979,700 Cents,	Dolls.	9,797
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545,698

Mint of the U. States, Treasurer's Office, Jan. 3d, 1799.

BENJAMIN RUSH.

A bill from the Senate for the relief of Thomas Lewis was read and committed.

Friday, February 1.

Mr. Josiah Parker, from the navy committee, reported the following bills, viz.

A bill for augmenting the navy, and fixing the pay of captains of ships or vessels of war.

A bill authorising the establishment of docks, and

A bill authorising the purchase of timber for naval purposes.

These bills were severally twice read and committed.

Mr. Rutledge, from the committee to whom was referred a resolution proposing to make an extra allowance to the serjeant at arms, on account of his sickness during the last session, reported a bill for his relief, which was committed.

The bill to alter the stamp duty imposed on foreign bills of exchange, and bills of lading, and further to amend the stamp act, was read the third time, and the blanks being filled, was passed. This act is to take place after the 31st day of March next.

On motion of Mr. Baldwin, the house resolved itself into a committee of the whole on the report of a select committee on the petition and remonstrance of the legislature of Georgia; and the resolution reported by that committee being under consideration, its adoption was opposed principally by Mr. Allen. Mr. Nicholas tho' the following resolution would be less exceptionable than the one reported, and it was agreed to, 55 votes being in its favor.

"Resolved that provision ought to be made by law for complying with such treaty as the President of the United States may think proper to make with the Creek Indians, and for obtaining possession in behalf of the State of Georgia, of the lands lying within the county of Tallasse, or other lands on the frontier of the said state, which may be deemed equivalent thereto, and that dollars be appropriated therefor."

The committee rose, and after some further remarks from Mr. Allen, the resolution was concurred in, 59 votes being in its favor. It was then referred to the select committee to report a bill.

Mr. S. Smith from the committee of commerce, reported a bill to regulate the collection of duties on impost and tonnage, which was committed.

On motion of Mr. S. Smith, the house went into a committee of the whole on the bill to amend the act to provide for the valuation of land and dwelling houses, and the enumeration of slaves within the United States. The first clause of this bill authorises the Secretary of the Treasury to augment, in cases where he may find it necessary, the compensations fixed for principal and assistant assessors by the present law, so that no principal or assistant assessor, shall, in any case, receive more than two dollars per day, exclusive of an allowance also made in the second section of this bill, for clerk hire to the principal assessor, of one dollar per day.

On enquiry, it appeared that the principal assessors have, by the law as it now stands, 1 1-2 dollar per day allowed them; and the other assessors 1 1-2 dollar whilst collecting, and 1 dollar when otherwise employed.

This bill advancing the pay of the assessors, originates from complaints from the state of Maryland, that persons cannot be got to perform the office for the sum allowed, and that, in consequence, in

many parts of that state, no steps have been taken to carry this law into execution. This fact was stated by Messrs. S. Smith, Craik, Sprigg, and Matthews, representatives from that state.

Mr. S. Smith moved to strike out two dollars for the purpose of inserting three; but this motion was superceded by one made by Mr. Varnum, to strike out the first section of the bill.

He thought the present allowance quite sufficient, and rather more than enough; that no complaint has been made from any other part of the union; that he could not agree to allow the Secretary of the Treasury a power to pay the officers of Maryland more than is paid to the same officers in other parts of the union, and he could not consent to raise the pay of the whole, when they are, except in the cases mentioned, perfectly satisfied with what is now allowed. Mr. V. saw no necessity for clerk hire; if a clerk were to be allowed, the office of principal assessors, he said, would become a sinecure; that nothing would make the tax so unpopular as thus to increase the expence of collection, and that out of two millions of dollars raised, not more than one million would find its way into the treasury. This opinion was supported generally by Messrs. Venable, M'Dowell, Shepard, J. Williams, Thatcher, J. Claiborne, and Findley.

The necessity of the increase was advocated by Messrs. S. Smith, Gordon, Craik, Pinckney, Harper, and Otis, as absolutely necessary if the tax was to be collected in Maryland; that it would not be necessary to advance the pay of the officers in any other parts of the union, but that owing to the extent of the districts in Maryland, and from other causes, persons could not be induced to perform this duty without the proposed advance.

After a great deal of conversation on the subject, the motion for striking out the section, was negatived, 45 to 41.—The committee rose, and had leave to sit again. The house adjourned to Monday.

IN SENATE.

A bill has been brought into the Senate for giving eventual authority to the President of the United States to augment the army in case war shall break out between the United States and a Foreign European power, or in case imminent danger of invasion of their territory by any such power, shall in his opinion be discovered to exist, by raising, in addition to the other military force of the United States, twenty-four regiments of infantry, a regiment and a battalion of riflemen, a battalion of artillerists and engineers, and three regiments of cavalry, or such portion thereof as he shall judge necessary.

By this bill the President is also authorised to organize all such companies of volunteers as have been or shall be accepted by him, pursuant to the act entitled "An act authorising the President of the United States to raise a provisional army," into regiments, brigades, and divisions, and to appoint all officers thereof agreeably to the organization prescribed by law for the army of the United

States; and to cause the said volunteers to assemble and exercise and discipline within the states of which they may respectively be, for any time or times not exceeding in the whole days in one year, and that when so assembled, they shall receive the same compensations as are by law allowed to other troops of the United States; and it is provided that two millions of dollars shall be appropriated towards the execution of this act, and that the President be authorised to borrow on behalf of the United States the said sum, or so much thereof as he shall deem necessary (which the bank of the United States is hereby empowered to lend) and upon such terms and conditions as he shall judge most advantageous to the U. States; provided that such terms and conditions shall not restrain the United States from paying off the sums which may be borrowed, after the expiration of fifteen years.

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A bill making additional compensation for the year 1799, to certain officers of the Senate and House of Representatives of the United States; and

A bill making appropriations for the support of the Navy Establishment for the year 1799;

Which bills were severally twice read and committed.

Mr. Harper also moved for the appointment of an additional member to the committee of ways and means, in the place of Mr. N. Smith, absent on leave. Agreed.

Mr. M'Clenachan presented a petition and remonstrance from 1210 inhabitants of the county of Philadelphia, praying for a repeal of the Alien and Sedition Laws, which they deem unconstitutional. Referred as usual.

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Mr. S. Smith moved to strike out two for the purpose of inserting three, making the allowance to the assessor three dollars.

Mr. Craik seconded the motion. He believed that without that allowance no tax could be collected in the State of Maryland, since no part of the tax could be laid until all the assessments are made.— Mr. C. believed the allowance was thought too small in other parts of the Union also.

Mr. Nicholas had hoped the gentleman from Maryland would have been satisfied with double the allowance for the assessors in Maryland, that is allowed to any other.

Mr. M'Dowell spoke also against the allowance.

Mr. Waln was in favor of the advance, he believed the present pay too small, and that the assessors in this city had undertaken the business more from personal respect to the commissioner, than for any other reason. If this was agreed to, he should be for dispensing with the clerk provided by the next section for the principal assessor.

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Mr. S. Smith said, the fact which had been stated, might appear less mysterious to the gentleman from Pennsylvania, when he informed the committee, that about two years ago, the state of Maryland passed a law for levying a direct tax, and allowed to the assessors of each district 106 dollars; and though this business was simple, and the present assessment complex, only 45 dollars are here allowed. Another reason, in the State of Maryland, no other person

employed by the State in its assessments, can undertake the same business for the United States. He supposed these the principal reasons for the existing difference betwixt this State and others.

On suggestion of Mr. Gordon that the question had best be first taken on striking out, it was agreed to be so taken.

On the question being put to strike out two, it was negatived, 47 to 34.

Mr. Gallatin then moved to introduce the following words into the section, "in order to procure principal assessors where the same may not have been appointed."

This motion was supported by Messrs. Harper, J. Williams, Ma-
con, and Venable; and opposed by Messrs. Thatcher, Mathews,
and S. Smith.

It was negatived, 19 votes only being for it.

Mr. T. Claiborne moved to make the advance general throughout the United States. He wished to have no discretion any where on this subject, but in Congress.

Only five votes were in favor of this motion.

Mr. Thatcher saw no necessity for the second section, which provided a clerk for the principal assessor; if a man could read and write, he said, he might certainly do the business of this office without a clerk.

The motion was carried, 59 votes being in its favor.

The third section then came under consideration, which went to repeal so much of the present act as makes it necessary to take an account of the windows in dwelling-houses.

Mr. Waln wished to propose an amendment to this section. He thought there are other parts of the ninth section of the present law which might very well be dispensed with, as they tended only to make the law disagreeable in its execution, in the same way that numbering the windows had given people an idea that a window tax was in contemplation. The only reason which he had heard given for these details, was, that they were to enable commissioners to form an idea of the value of houses; but he thought this reason insufficient, as he did not believe any just opinion of the value of houses could be formed without a personal view of them. The Secretary of the Treasury, in his letter to the Chairman of the Committee of ways and means, seems to hold out this idea. Mr. W. moved that the section read as follows: "that so much of the said act as requires the assessors to take the number and description of the windows of dwelling-houses, and of the exact dimensions or area of the dwelling-houses, or other buildings, shall be and the same is hereby repealed; and it shall be the duty of assessors to require such a general description of dwelling-houses and other buildings, as they may deem necessary."

The amendment was supported by Mr. Bayard and Mr. J. Wil-
liams; and opposed by Messrs. Harper, Gordon, Nicholas, and Reed.

On suggestion of Mr. Nicholas, that the words printed in *italic* were more objectionable than the present law could be, Mr. Waln withdrew them.

The question was then taken on the amendment, and it was negatived, 22 votes only being for it.

On motion of Mr. Harper, a new section was added to the bill, giving a power to the commissioners to extend the time of receiving appeals by the principal assessors.

The committee then rose, and the house took up the amendments.

Mr. Waln moved an amendment to repeal that part of the present law, which requires appeals to be made in *WRITING*, which he said was found inconvenient in some parts of the state. Carried, 35 to 26.

Mr. Varnum then moved to strike out the first section of the bill (which makes the increase of pay to assessors) and called the yeas and nays upon it.

Mr. Nicholas said, he should vote against striking out this section in hopes that an amendment something like that which the gentleman from Pennsylvania proposed in the committee of the whole, would be adopted; but, if such an amendment was not agreed to, he would finally vote against the passing of the bill.

The yeas and nays were taken as follows :

YEAS. Mess. W. Claiborne, Clay, Clopton, Davis, Dawson, Eggleston, Elmendorf, Findley, Fowler, Gregg, Grove, Harrison, Havens, Heister, Holmes, Jones, Livingston, Locke, Lyman, Machir, Macon, McLeanahan, M'Dowell, New, Shepard, Skinner, W. Smith, Stanford, Sumpter, Thatcher, Thomson, A. Trigg, J. Trigg, Van Alen, Van Cortlandt, Varnum, Venable, J. Williams, R. Williams. 39.

NAYS. Mess. Baer, Bayard, Blount, Brace, Brooks, Champlin, Cochran, Craik, Dana, Dennis, Dent, Edmond, Evans, A. Foster, D. Foster, Gallatin, Gillespie, Glen, Goodrich, Gordon, Griswold, Hanna, Harper, Hartley, Hindman, Imlay, Matthews, Morris, Nicholas, Otis, I. Parker, J. Parker, Pinckney, Reed, Rutledge, Schureman, Sewall, Sinnickson, S. Smith, Spaight, Sprague, Sprigg, Thomas, Wadsworth, Waln. 45.

The first section being left out, the remainder of the bill underwent the necessary alteration, in point of form, and then it was ordered to be engrossed for a third reading.

On motion of Mr. Harper, the house resolved itself into a committee of the whole on the amendments of the Senate to the bill respecting certain balances due from the several States to the United States. The amendments were, first, that the time of erecting fortifications should be confined to five years; second, that cession should be made of the territory on which any such fortification should be built.

Mr. Bayard moved to amend the first by adding, "or in the erection of piers for the protection and improvement of any port or harbour in the United States."—This motion was negatived, 26 votes only being for it.

Mr. Cochran moved to strike out that part of the amendment which requires a cession of the territory.

This motion was advocated by Messrs. Livingston, J. Williams, Brooks and Gallatin; and opposed by Mr. Harper.

Mr. Bayard moved a reference of this amendment to a select committee, which was negatived, 46 to 29.

The question was then taken on striking out what relates to cession, which was carried 40 to 38.

Adjourned.

Tuesday, February 5.

The House met as usual; when the Clerk informed the members present, that the Speaker was indisposed, and unable to attend the duties of the Chair this morning, when a motion was made to adjourn, and the house adjourned accordingly.

Wednesday, February 6.

An engrossed bill to amend the act for laying a duty on dwelling houses &c. was read and passed.

The Bill to regulate the duties on Imports and Tonnage was taken up, and the house went into committee, Mr. Rutledge in the chair.

Mr. S. Smith stated this bill to be a collection of the laws on the subject into one bill, to which several amendments were added.

One of the sections provides an exemption from the duty of Horses, Cows, and Sheep and Swine for breed.

Mr. Livingston moved to amend this by adding, to precede the word horses, the following: Books, Maps, Prints or Charts for the use of any college, academy, or incorporated library. He stated this motion to be in consequence of several petitions lately received from the trustees of libraries for this purpose.

Mr. D. Foster wished the committee, to whom those petitions were referred, to give in their report before it should be provided for, that gentlemen may see upon what grounds it was supported.

Mr. Smith stated the reason for its introduction now was, because the committee of commerce meant to report favourably on it.

Mr. Gallatin opposed its introduction because he thought it an improper place: this was a bill to regulate duties, and not to lay or remit them, on that account he considered the section improperly introduced into this bill.

Mr. Allen was opposed to the principle: he thought it would be more proper to exempt them from duty for the benefit of young students and poor clergymen, many of whom were unable to purchase: indeed he thought there was more reason in favor of any class of men, than institutions of this sort, which in general were opulent and well supported. But another, and more important objection was, the propriety of encouraging the art of printing in the country, which exempting library companies from duty would much injure, as well as the revenue, for it might soon be the case that all books would be imported under this exception.

Mr. Livingston believed the gentleman had forgot the great improvement science received from the introduction of foreign improvements by books. All the opulence of those companies consisted in their books, and their aim in making this request was, the improvement of science and literature, not to defraud the revenue. He asked which could be regarded most beneficial; a book which perhaps passed through five hundred hands, or that which was confined to a single closet? He said those companies were not very numerous [Mr. Allen answered they were very numerous.] There could be no danger of their injuring the revenue from design to sell them, for the law only related to those imported for the use of the company.

Mr. Otis contended there was nothing to prevent those companies importing books to sell for the use of the society, and hoped it would not prevail to give a monopoly to a company and injure the revenue.

Mr. Thatcher said it would be far more proper to exempt books from duty which were purchased by those solitary individuals who reside in the country, who for one dollar could perhaps read but one book, while people residing in the city would have access to thousands for the same money. He hoped the principle would not prevail at all.

Mr. Livingston said he doubted at first of the propriety of introducing library companies, &c. with such company as beasts, but he reflected, that while the house were providing for corporal use by introducing good beef, mutton, &c. it would be proper to provide food for the intellectual faculties as cheap as possible.

On the suggestion of Mr. Waln, Mr. L. withdrew the motion, informing the committee he should at some future occasion, again bring it forward, and hoped it would be allowed.

The bill being gone through, the committee rose.

The clerk informed the house that the speaker was obliged to return to his lodgings very ill. Mr. Nicholas hoped the house would proceed to elect a speaker pro. tem. but a motion for adjournment having been made, it was carried.

Thursday, February 7.

The speaker laid before the house a report from the Secretary of the Treasury, containing a statement of goods, wares and merchandise of foreign produce imported, for the year prior to the first of October, 1798.

The amount in value is 33 million of dollars.

	Dollars.
The amount of exports for the same period was	61,327,421
The preceding year was	51,294,710

Increase, 10,032,711

The most material increase in exports appeared to be in the article of Tobacco. 10,000 hds. more having been exported for the last than the preceding year.

Also a report of the tonnage of vessels employed for the same period.

Mr. Morris reported a bill for compensating marshals, jurors, witnesses and attorneys in the courts of the United States, which after a few observations from Mr. Otis recommending its postponement to next session, it was referred to a committee of the whole.

A bill was reported by Mr. Pinckney, appropriating money for holding a treaty with the Indians respecting the Georgia claim.

Those bills were severally referred to committees of the whole.

A report was made by Mr. Harper, unfavorable to the petition of Dan'l Stephens, supervisor of Charleston, to which the house agreed.

A petition was presented by Mr. Waln from John Wells, of Philadelphia, respecting bullion which he had deposited in the mint. It was referred to the committee of claims.

Mr. Rutledge chairman of the committee of the whole reported the amendments yesterday passed to the bill for regulating the collection of duties on imports and tonnage. The house took up the same, and having agreed to them, the bill was ordered to be engrossed.

A bill from the Senate for the relief of Thomas Lewis for allowing additional pay to him as aid de camp, was taken up, the house went into committee, when the bill was agreed to, and also in the house, and was ordered a third reading.

A message from the Senate was received, containing sundry amendments to the bill for the further suspending the commercial intercourse with France, when the house went into committee thereupon:

The principal amendment was to strike out the fifth and sixth sections of the bill which related to empowering the President to break off the commercial intercourse with any port or place where privateers may be equipped to cruise against our vessels.

The amendments were agreed to, and the committee rose, when the question, to strike out the two sections was taken by yeas and nays and carried. Yeas 59. Nays 32.

Y E A S.

Messrs. Baer, Baldwin, Bard, Bartlet, Bayard, Blount, Brent, Brown, Bullock, Chapman, T. Claiborne, W. Claiborne, Clay, Clottenham, Cochran, Dana, Davis, Dawson, Dent, Eggleston, Elmendorf, Evans, Findley, Fowler, N. Freeman, Gallatin, Gillespie, Gregg, Hanna, Harper, Harrison, Hartley, Havens, Heister, Holmes, Imlay, Jones, Livingston, Locke, Machir, Macon, M'Clenachan, Morris, New, Nicholas, I. Parker, J. Parker, Schureman, Sewall, Sinnickson, Skinner, S. Smith, W. Smith, Sprigg, Stanford, A. Trigg, Varnum, Venable, R. Williams.

59.

N A Y S.

Messrs. Allen, Brace, Brooks, Champlin, Craik, Dennis, Edmond, A. Foster, D. Foster, J. Freeman, Glen, Goodrich, Gordon, Griswold, Hindman, Hofmer, Kittera, Lyman, Mathews, M'Dowell, Otis, Pinckney, Rutledge, Spaight, Sprague, Thatcher, Thomas, Thomson, Van Alen, Wadsworth, Waln, J. Williams.

32.

The Senate persisted in their amendment to the bill for settling the claims of the United States against individual states, disagreed to on Monday by the house, and requested a conference, having themselves appointed two members for that purpose. Three were appointed on the part of the house.

The house then went into a committee on the bill for augmenting the navy, Mr. Rutledge in the chair, when

Mr. Gallatin moved to strike out that part of the bill which related to providing six ships of not less than 74 guns each, so as to leave provisions only to procure six sloops. He thought proper not to make the motion till it came in the form of a bill, as the most proper stage to introduce it. He felt no objection with respect to the sloops. The general question, he said, was now fairly before the committee, whether it was proper at this time to lay the foundation of a navy or not, which may be, at some future time sufficient to cope with the navies of Europe. Last session, it seemed to be the opinion of the house, that there was no sufficient reason why we should enter into the subject of building ships of the line, for that small vessels were sufficient to cope with all the force the French could have in our seas, or in the West-Indies, and accordingly it was then determined that the number of ships then provided for, was sufficient, and this opinion does not appear to be altered if we attend to the scope of the bill, for it cannot be supposed that it would be of service in our present differences with the French. There is but one argument principally used by the committee who reported the bill to shew the necessity of the measure in addition to what used to be given, and that is the great advantages which they suppose to be derived from our navy since the last session of Congress; they suppose that those advantages have been so great, as to encourage us to increase our naval force. [Mr. G. here read the report of the committee, wherein they view the fall which insurance has taken since that period, which they view in the total to be 9,078 000 dollars to the citizens of the United States.] The committee, Mr. G. said had supposed the navy bill to have saved 9 millions on our trade, which they say is more than the expence of the navy. He would beg leave to make some observations on the data on which this opinion was founded, in which he differed in toto with them.

In the first place, whatever fall insurance might have taken, which seems to be the foundation of their argument, it must have arisen from two other causes, and not the navy. First, private vessels being suffered to arm, and secondly to those vessels which have been armed by public contribution. It is absolutely necessary, before we can estimate the saving which our public vessels have made, first to know what has been saved by our suffering the merchant vessels to arm: if we take into review the situation of the West-Indies at the time that bill passed, there can be no doubt but this private arming has done more good than the navy could do, particularly considering the number of row boats which used to come out from some parts of St. Domingo, against which our merchants unarmed could not protect themselves, but now they are universally suppressed by

those vessels. We ought therefore, first to deduct the value of this saving from the total which is ascribed to our navy.

Again, it is very extraordinary that the saving in the insurance to the East-Indies and to Europe, should be ascribed to our navy. The report states the fall of insurance to Europe to be from 12 1-2 per cent. to 10 per cent. Now this saving of 2 1-2 per cent could not be owing to our navy, for they do not either cruise to Europe or to India, but the latter is still more in point, the insurance having fallen from 22 1-2 to 12 1-2 per cent. while in the West-Indies it has only fell 5, viz. from 17 1-2 to 12. Such is the fact, that where our navy does not go, the fall has been greater than where they do cruise, which if that had been the cause would have had a contrary effect, and therefore we must conclude that the whole scaffold built by that committee must fall to the ground.

Mr. G. said he would now attempt himself to shew what he conceived was the cause of this fall in the insurance. He believed it was owing to various causes. First, the rate of insurance was a vast deal too high at the period alluded to, so much so, that the premium given has produced an handsome profit, and become a desirable trade: whatever captures were made, the dividends were exorbitant in those companies, that even 20 per cent. has been offered for them, which is a plain proof that they were higher than they ought to have been, and this is sufficient reason why it should fall, because it became so profitable that more property was put into that kind of fund: he had seen lately two new insurance companies advertized in this city, and a private one besides, formed by a few gentlemen.—This excited men of great capital to put their money to that use, and the natural consequence must be a depreciation in the policy.

Again, when the dispatches from France, were first published in April last, a war was apprehended, and therefore greater premium must be paid. The months of April, May, June and July, was the period at which the rate was so high, and that was the time in which the document was formed with which the present rate of insurance was compared. It is a fact that at the period alluded to, insurance was refused on any premium to vessels which might be detained in the ports of Spain and Holland, so great was the risk.

Another reason must be, that in relation to Europe, it is clear that measures which have been adopted both by France and England must have tended, during the present campaign to diminish the number of privateers belonging to France, for to make a pretension for invasion, or for something, the French have laid an embargo on their privateers, and on the other hand, the British have blocked nearly all their ports, from both of which the captures must be diminished, and insurance must fall in proportion. In relation to the West-Indies, an event of very great consequence has transpired there to lessen the price of insurance: the evacuation of St. Domingo by the British; it is well known that the rate of insurance to that part of the island which the British held was much higher than to any other part, in consequence we do not find any part of the report which speaks of the premium to that part, as there is now no British port on that island.

There are two other causes as it relates to our situation with France why insurance should be lower at this than at the period alluded to : whatever might be the sincerity of the French government in relation to putting an end to their differences with this government ; whether they mean, or wish to make peace, I cannot say, but this I believe from their conduct, that they are more inclined to treat with us now than at any former period, and this is a general belief in the community, and therefore, whether the opinion be well founded or not, it must be considered a sufficient reason why insurance should fall. Again. Within these six months the power of France has been considerably diminished by the destruction of their fleets, and therefore they are rendered incapable of injuring our commerce so much as at a more flourishing period of their naval power. On that account there is substantial reason to conclude why our insurance should fall, and from a combination of these causes the argument must be very strong to prove that it was not owing to our navy.—Though I am willing to allow that some good has flowed from our navy, and insurance to the West-Indies might have been somewhat affected by it, yet I must declare that for the whole advantages to be ascribed to it, is a fallacious idea, and therefore it will be impossible for us to say what has, or what has not been saved by it. I have no documents to prove the savings on either side. There has been much loose assertion made use of to aid our ideas on this head : the secretary of the navy asserts that the amount of 12 ships of the line would have been saved to us had we possessed that number to protect our trade ; and the secretary of State makes an assertion that 20 millions of dollars have been captured by the French from us. I should be glad to know what grounds those officers draw their conclusions from, we cannot at any rate derive information from such loose and uncertain data. If the Secretary of State has any such information in his office, it was his duty to have laid it before us as part of his report, but as he has not done it, we must conclude that no such document does exist, and that they give this merely from their own loose conclusions, to which we ought not to pay the least regard.

Mr. G. said he thought there was a way by which the truth might partly be obtained, and he knew no other way. If the different insurance companies of Philadelphia, New-York, Baltimore, and Boston, would give the House an estimate of the sums they had actually paid for captures for the last two years made both by the French and British, there could be some kind of certainty to draw a conclusion, he supposed within one million of dollars. This would be in the power of some gentlemen in the house he presumed : if others had got such estimate from other cities, he would endeavor to obtain it for this city. He said he got that estimate for the year before ; but from the small amount of losses in that statement he was at a loss to know how the secretary could make out twenty millions, but as he had got it from only one company, he could not possibly estimate the gross amount. He repeated that he would not wish to be understood to mean, that no benefit had been derived from the navy, but

that too much had been ascribed to it. As to the amount of captures, he would observe that whether they were three, or twenty millions, it ought to make no difference in relation to this law, but although that may be, it must make an essential difference indeed on the question now before the committee, relating to what the navy should be, for the nett expence must be considered ; the profit and saving our commerce may gain by the navy is a question important to understand, while we are considering its advantages, on that account it would be useful to know the amount of the captures.

He would now proceed to take a view of the proposed navy itself as it related to the article of expence, for every thing else remained unknown, as the committee had not produced any ground of the necessity of those ships. The expence unfortunately does not rest on so uncertain a data, because we have had something to do with that before. It is stated by the secretary of the navy that the actual expence of one 74 gun ship will be 216,000 dollars annually, and that the annual expence of twelve would be 2,603,000 dollars, six would therefore be 1,300,000 dollars. Again, the building exclusive of military stores, would be, for one 74, the sum of 342,700 dollars [Mr. Parker said the stores would be 48,000 dollars] thus for six, building, equipping, and stores, would make the sum of 2,504,000 dollars. The question then is, are we prepared to go into the expence of two millions and an half of dollars for building those ships, and afterwards to the annual expence of 1,300,000 to support the same number as we begin with ? It may not be amiss to take a view of the time a ship of the line usually is fit for service. From information I have seen, it is from 12 to 15 years : In Great Britain they are supposed to be good 15 years, but in France only 12 years, therefore it is clear that this first expence must be renewed every 12 years, exclusive of the annual charges for repairs to keep them in order for use, what that may be we have no statement to determine by : we have no document at all to inform us what will be the peace establishment of our navy.

Having stated what the expence of building these ships, and paying their crews will be, I will now proceed to shew the amount of our revenue and expenditure at present, in order to shew that this is an improper time to enter into such an expence.

	Dollars.
Our revenue from imposts and tonnage is	7,400 000
Our internal revenue,	600,000
The duty on stamps,	200,000
The land tax, deducting the expence of collection, &c. will clear about	1,800,000

Leaving a total of Dolls. 10,000,000

To stand against this, I find by the statement from the treasury department that the accessory appropriations for the present year is 7,400,000

Besides which, there is a number of items not included, for which appropriations have been already

made, some of which are permanent. First there is a permanent expence yearly, of the interest and charges of the public debt, and domestic loans of about which added to the last sum makes an aggregate of

3,800,000

11,200,000

In addition to this, there are a number of articles, for which we have already made appropriations : to wit. Fortifications, purchase of arms, military stores, &c. which will amount to about 300,000 dollars, not included in that estimate, of which there will be wanting for the present year about

800,000

To this we must add about 800,000 dollars, already appropriated, but not yet expended for the naval establishment, and 300,000 dollars for several miscellaneous objects ; these together are

1,800,000

The amount of these is Dollars. 13,300,000

From this amount, after deducting about a million and an half, included in this year's appropriations on account of the additional army, but which cannot be expended during the present year : we may therefore calculate the expences of the present year to be at least 11,500,000 dollars as already authorised by law, exclusive of the present navy, and therefore the expenditure will exceed the receipt of taxes a million and an half, or two millions, and therefore the whole amount of what we are now going to appropriate must be paid from the loan which we have authorized the President to make. The loan which is now open has an interest offered for it of 8 per cent. It is not for us to say whether this premium is too high or too low, but we must say it is of much importance to us if we are obliged to borrow money at 8 per cent. in order to increase our navy, and thus increase the bulk of our public debt. There can be no need of a comment on this part, it is sufficiently evident that a measure of this kind is very improper : it is sufficient to prove that we ought not to go into the expence of a navy under such circumstances, when that navy cannot be wanted for immediate use, and when we consider that the expence must be increased in proportion to the premium we must give for money.

Again. If we are to consider this as a permanent establishment, and at the same time our permanent resources and compare it with our permanent expenditure, it will show that it is not proper at this time to attempt the undertaking. I have shewed that the revenue is 10 millions. Our permanent expences are as follows :

Civil list, military, and other pensions, light houses, dollars. 1,000,000
Algerine, contingent and miscellaneous expences,

Permanent army expences exclusive of the additional army which have been voted, our present army consisting of 5013 men, has required an appropriation every year of

The interest and charges of the debt we have before seen is

Add to this the annual proportion of the deferred debt to be paid in the year 1803, $\frac{1}{2} \text{,000,000}$
 The keeping up fortifications and providing military stores, and establishment of the present navy as already authorised by law, $3,000,000$
~~Aggregate, Dollars. 10,500,000~~

Thus we see that our present expences will exceed our present revenue, half a million even if we shall discharge the additional army, and it is under these circumstances that we are called upon to build a navy.

We will now take another view of the subject. Suppose we deduct the navy expences, it would leave the annual amount of our expences to be \$,000,000 dollars, which is exactly the amount of all our revenue, except the land tax: this is brought forward to show that the expence of the navy ought to be charged to the land tax, and that all extra expences must be taken out of the loan. The question then occurs to us, whether we are to borrow money at 8 per cent. to build a fleet, and secondly, whether, whatever the expence of keeping this fleet may be, it must be charged to the land tax. If these facts are true, it must evidently form a conclusion that it is improper at this time to build ships for which we have no immediate demand: and at the same time we should consider that if we should lay the foundation of a navy, we knew not where it will stop: this we may conclude from the anxiety to obtain a large force. The Secretary of the Navy has supposed six ships will be insufficient, he has recommended twelve as indispensable; six only are now recommended by the committee, which will serve as an entering wedge to a future increase of our naval force. If the object is to protect our coast and commerce with ships of the line, twelve will be insufficient, if we wish them in relation to the fleets of Europe, comparing their coast with ours, and the tonnage of vessels used in foreign trade. Our tonnage at present exceeds any nation except Great Britain, and previous to the war did exceed any except England and Holland. If we are to have a navy in some proportion to our commerce for its protection, agreeable to the rule of what is used by European powers, to have a number of ships sufficient to cope with them, it must appear that twelve ships of the line will not be found sufficient, but that it must be increased to a far greater force. Let us consider the expence that would be necessary to incur in order to pay the seamen that must be employed in our navy compared with that of England. We find at the time the mutiny was quelled in the British navy, their seamen's wages was raised one shilling florin per diem: our seamen are paid seventeen dollars per month, therefore our proportion of pay to theirs is as 17 dollars to 30 florings flor. or 6 dollars two thirds: or nearly as three to one. It is upon this we must draw our conclusion, if we are to consider at all.

K k k

Mr. G. said he did intend to make some observations upon the expenditure of Great Britain, in order to show that the expences of their navy had always been far greater than the advantages derived from it, and he believed the same of all other nations besides England, and that they were merely raised up as instruments of power and not of necessity for commercial protection: but this would take too much time at present, and therefore he would waive it. Besides this we might consider the expence that a navy involves nations in, as creating a propensity to war, which has always been the effect of navies, and from that view should see that a greater expence has been incurred than saved. Recalling to view the expences of the British navy for thirteen years, from 1776 to 1789 inclusive, making seven years of war and six years of peace, we shall find it average about six millions of pounds sterling a year. He would wish gentlemen from this view, to consider the rate at which our expences will be compared with that: the price of our seamen being as three to one with those of England: what kind of expence are we to go into, in order to cope with a navy like that of England? Suppose we are to have but a tenth part of that number, and instead of 120 ships of the line as possessed by England, we should have but 12. It would take an annual expence of three millions of dollars according to the calculation made on the British navy, but when we consider we are going to pay nearly three times as much for our seamen, to what enormous expence we shall go!

We are now called upon, from this view of things to know whether we will engage in such an expensive peace establishment, to do which we must borrow money at a great rate, or increase our revenue to a far greater degree. It is said that in order to have a large commerce, it is necessary to have a large navy. On this ground we must view those nations who possess large navies, to see whether their commerce flourishes in proportion. Spain has a very considerable armed force at sea, but they have very little commerce: the amount of their tonnage compared with ours, is very insignificant, and yet they have the third naval force in Europe. Holland at one period, had a very strong navy, but they gave it up: they found that they could not support the expence, but it is well known that notwithstanding this, their commerce was not affected in any considerable degree: we know that they were the second commercial nation in Europe: thus although Spain has a more powerful navy, and Holland has given up part of her navy, yet Holland has far the greatest commerce, and was the second in Europe till they became a party in the war. But our local situation is very different from theirs: they being at war with Britain, their commerce is annihilated, because they have the enemy at their very doors: the British are able to blockade all their ports.

From these considerations we must conclude, that a navy is not absolutely necessary to protect our commerce, but that it is only a desire to become a powerful nation that will promote it, and as it

always leads to a war, it is exceedingly improper to enter into it, and most particularly at the present time.

Friday, February 8.

Mr. Bard moved that the petition of Robert Sturgeon, a prisoner, tried at the suit of the United States, be referred to a select committee, which was done accordingly.

A bill was reported by Mr. S. Smith, from the committee of commerce to establish the compensation of officers employed in the collection of duties on imports and tonnage, which, together with a petition of William Dodge, and others, and one from the weighers of Boston, was committed to the whole house.

A report was made by Mr. Foster from the committee of claims on the petition of Seth Harding, which was unfavorable, and the house concurred therewith.

A bill for the relief of Thomas Lewis, was read a third time and passed.

The house went into committee on the bill for the establishment of Docks, and being passed through without debate, the committee rose and the house agreed to the bill, and ordered it to be engrossed.

The house went into committee on the bill for purchasing timber for naval purposes. The bill was agreed to, the committee rose, and the house ordered it for a third reading.

Mr. Hartley moved the reference of the several petitions for the repeal of the alien and sedition bills, &c. to the committee of the whole house. They were committed for Monday.

The house again went into committee on the Navy bill; the motion of Mr. Gallatin to strike out that part which relates to 74 gun ships, being under consideration,

Mr. J. Parker hoped the amendment would not be agreed to, but he expressed an happiness that the gentleman had not gone farther, because heretofore he had universally opposed a navy and every part of it, but he was pleased that he had allowed the necessity of the six sloops, and indeed yesterday he allowed the navy had done some good, but he was not willing to admit of all the advantages which the committee did: he derived his conclusions from the rate of insurance being lower to Europe than to the West-Indies, but that is owing to various causes, among which, one is that the British vessels in the West-Indies are mostly large, and not so able to destroy the French privateers, indeed it is not their policy to destroy them, but leave them to take our merchant vessels in order to exasperate us against their enemy: it is their policy to suffer our vessels to be taken, in order that they may retake them, by which they have the double advantage of exasperating us, and obtaining salvage for recapturing. Thus it is true that our navy has not effected all the savings we have had, because the British navy has assisted. But it must be acknowledged that great benefits have arisen from our navy, if we consider how our coast was pestered with

French privateers, nay one of them even stationed itself in our bay; and there annoyed our trade exceedingly, and took our vessels from our very rivers, but since our ships of war have been cruising, we have heard of no such depredations. He was happy the gentleman had acknowledged some benefits, but Mr. P. said he did. respecting the proportion of good derived, it being in his opinion very considerable.

When we consider the number of vessels employed in the commerce of the United States, which at present is more than any nation in Europe, except Great Britain, could gentlemen say that we should give no aid to that great source of our revenue, in protecting it safe to our country, in the loss of which our revenue must materially suffer. If we look to our commerce and estimate its value, and at the same time consider the expence of our navy, we shall find that less money is bestowed in the support and protection of this object in our country, than in any whatever. This protects the produce of our agriculture, and enables the farmer to sell his produce, besides the advantages of saving our country from assault: indeed, said Mr. P. I am struck with astonishment that farther measures have not long ago been entered into to support a measure so worthy of attention.

Mr. P. then referred to the number of seamen employed in the British navy, which he said agreeable to the estimate of Lord Chat-ham of 1000 men to a ship of the line, would make 141,000 men for the 141 ships of the line now in the English service. Such a navy he hoped we should never have, nor even a proportion to their tonnage of merchantmen, which was double to what ours was. The number of men in our service will not exceed 12,000, the expence of which would be very trifling compared with the profits gained by the preservation of their trade.

It was asked by the gentleman whether we meant to make this navy a permanent establishment or not: Mr. P. declared he should not hesitate to confess his wish that it might be made a permanent establishment, and that a navy would be valuable; he did not say that in time of peace he would wish to keep so great an establishment, but it would be necessary to hold some of the most valuable officers in the service. The gentleman had made a wrong statement of the time a ship of the line would be fit for service; they would not even want repairing in twelve years, and would be fit for service 40 or even 50 years: there were some at this time in the British service of that age. He had not obtained an estimate of the peace establishment, but he supposed it would not be very considerable, for about 20 or 30 men would be sufficient to take care of the vessel, and preserve it from damages. The gentleman further complained that the wages was greater than in England: it was so, but not so much as he estimated. Their able bodied seamen at this time receive a guinea and an half per month, and our able seamen have seventeen dollars, but our ordinary seamen have but 10, which

we may suppose to average about 14 dollars per month, so that he would admit our seamen had double the wages of English seamen; but we have not the same means of obtaining them; there are no coercive measures used here to force men into the service by impressment, and he hoped there never would be, and therefore we could not expect to get them as cheap as those nations where that practice exists; he would rather pay them a little more wages than resort to it. But the price paid to them was not the only thing which demanded attention: it was to be remembered that after these men returned from a cruize they would spend their wages in the country, so that the money actually returned to the bosom of the country, and therefore it was only changing the property of the United States into different hands, and not losing it. By employing them in our service, we prevent them from entering on board British ships, for there is not enough employ in agriculture for all our men, and therefore it is as well to afford them employ in our own service. The agriculture of this country is very considerable, perhaps enough to supply a great part of Europe, and we have nothing to do with it but to send it abroad, and this is our principal article of export. There is nothing that ought to go hand in hand so much as commerce and a navy; commerce cannot be supported without a navy, it is by this that we protect our surplus of agricultural labors, and men who are interested in the support of agriculture ought to be the first to encourage: he was surprised that persons of that description did not see what was their interest: but he hoped they would come forward, and acknowledge with the gentleman from Pennsylvania that the navy has done some good, and under that impression he hoped they would go farther, and vote for an increase of those advantages. It would be an happy thing for the world if there was no such thing as a navy, and then we should want none. But since the powers of Europe have got one, and in this have done as they pleased, we have also a right to do as we please. It would not only protect us at home, to be possessed of a small navy, but he thought it would be the most effectual means to keep us out of the wars of Europe, by preventing their depredations on our commerce: indeed there can be no method to preserve our security and promote our prosperity but by a little navy, such as is contemplated by this bill, which is all our finances will permit, otherwise more vessels would be useful. Without some force of this sort, other nations would depredate on our commerce in the manner the British, as well as the French have done. We should then be able to resist such a decree as the French have lately passed, which we may with propriety call a declaration of war against the whole world, in declaring all men pirates who should enter on board their enemies' ships, and executing them pursuant thereto. Where are the men that would not defend themselves against this unjustifiable measure?

Mr. P. here read some observations on the establishment of a navy

written by Mr. Jefferson, wherein he recommends the policy of such a measure.

Further said he, the gentleman from Pennsylvania said that we had no money, and therefore we were not to employ any means to protect our commerce, and put ourselves in a posture of defence against foreign depredations : no, said the gentleman, if you do it, you will exceed your receipts by two million dollars. Mr. P. had no doubt but if we wanted them, which to him was evident, ways and means would be found to procure them. We had hitherto been able to obtain supplies for our current wants, without any inconvenience. He said they had protected their frontiers against the incursions of the Indians, and forced them to terms of accommodation : after that they had expended 1,200,000 dollars to suppress the Western insurrection ; since that they had expended a considerable sum to accommodate differences with the Barbary states, and yet found all those expenses borne, and he did not think they would fail in providing for the protection of commerce by a small navy, and if ever the public debt was fifteen millions more than it now stands, he was satisfied that our increasing resources would not leave us in difficulties on that head, but should be able to pay it : the principal means to be able to do which, was to procure a navy sufficient to bring our imposts into our own ports, and therefore he hoped the amendment would be negatived.

Mr. Harper said that the subject of a navy had been so repeatedly discussed, and the observations had run so much on its general principles, that it would not be necessary for him to say any thing on the question in that view, but as the present state of the country had been so often brought into view, he should make a few observations in answer to some which had been made. It appeared to him he said that the subject of a navy divided itself into two heads, as the gentleman from Pennsylvania yesterday stated : first, as to its use in affording protection to our country, and in that he supposes it will after all be extremely inadequate to its object : the second is to protect our commerce : this last, the gentleman has with much learning, but influenced by a total forgetfulness of history, and facts, gone into an extensive view of. The gentleman proves that a navy —any possible navy that could be contemplated by this country would be ineffectual, because he says there is but one maritime power in Europe which has been able to offer protection to its navy, but he says that though that power has reigned mistress of the ocean for these hundred years, yet the savings by protecting their commerce have not equalled the expence which it has produced. But he forgot that not merely the safety of her commerce depended on the navy of England, but her very existence—her independence, for without it she would have long ago been made a prey to the rapacious power of France, to which she must have become a colony. It was not owing to her population, for that never amounted to much more than a fourth part of the population of France ; it was

not her military force, for that is far inferior to the French : what then has preserved her independence ? Nothing but her naval power : this has enabled her, while herself kept the navy of France in awe, to bring forward the military force of Germany to check the overbearing ambition of France : Those two nations have more military, marine, commercial, and pecuniary resources, than any two nations in the world besides.

By this she has brought supplies to herself and her friends, for had it not been for the commerce of England, she would have fallen first, and the powers on the continent afterwards, but on this very account she is able to stand unparalleled. It is a poor paltry conclusion to talk about a small sum of money which she has expended, compared to the great advantages derived. If the gentleman was not so determinately opposed to the principle as he appeared to be, Mr. H. believed he would be the last man in the world to draw the conclusion he had formed. Is it a truth which he can believe, that because we cannot oppose a navy to the greatest maritime powers, we should not have the means for preventing our own harbours being blocked up ; that we should not hinder privateers from coming into our very bays ? Is it reasonable because a man cannot live in a palace, that he should refuse to take his family into a comfortable house, but inferior in point of dignity ? Because a man has not all the comforts of life, should he refuse those which he can obtain ? Sir, the difference between defence and absolute dominion, constitutes the difference between that gentleman's arguments and truth. We do not desire to rule the ocean ; we have no views but to protect our commerce and country from insult and injury. The gentleman says that we can never hope for a greater navy than Spain who has no commerce, or than Holland who has long given it up. What obliged Holland to give up her navy ? Not a want of money. Although her situation and resources were nothing to what ours are, yet she stuck to her navy, and was sole arbitress of the north, and though not mistress of the ocean, was at any time able to put an hook in the nose of the maritime strength of even Britain herself ; with a little assistance from France, she was able to keep in check the British navy. But what was it ruined Holland ? It was the land wars which the overbearing genius and military pride of William III. aided by that of Lewis XIV. of France : her land was ruined and her resources by forming dangerous alliances. Had she done what we want to do—turned all her views to her navy, and disregarded any land wars, she would not even at this day been much inferior to the English, but have been able to balance against her ; instead of being now a paltry, contemptible province, she would, if not the first, have been the second rate power of Europe. The gentleman says that she has no navy : she has a considerable navy yet, but before the destruction made to it by the British, her naval power was great.

But, Mr. H. observed, our situation was not analogous to Holland ;

we are not at the door of England; we are not obliged, in order to preserve ourselves from destruction, to keep up a fleet equal, or any way able to cope with the maritime power of England, as Holland must do: no sir, we are placed at a distance from the naval force of Europe. England must maintain a power sufficient to combat the whole maritime force of Europe, and it is only by this that she can preserve herself, but we are so situated as by a little naval force to be able to fight her where she has the least defence, and this from our contiguity to the West-Indies, where is all her trade, and whence she looks for the support of her immense marine: in this we have advantages which no other power possesses, by having her richest commerce pass by our doors, and therefore such a navy as Holland now possesses, would answer all the purposes which we can ever want.

As to the navy of Spain not having protected her commerce, we must attribute it to her total want of spirit, and not of power: her apathy has made her to submit to the dominion of foreign powers: we know that she has a number of ships, but of what use are they? Had she the spirit of other nations, would her fleet stay blockaded for 18 months in port, without daring even to venture out? Spain has been a great nation, but she has ceased to be so. We know that now they are an humble tool in the hands of the Directory, and submit to their will. If the navy of Spain was in the hands of American seamen, or British either, it would be a formidable maritime force. The difference in our local situation with that of the powers of Europe, is essential in this point, that we are at a distance from their strength, while they are at the door of each other; we have the Atlantic between us, and their richest commerce flows close by us, and therefore we can do with a small navy as much as they can do with a larger, our situation giving us the advantages of maritime strength. We are a nation composed of six millions of people: Holland of only a million and an half, or never more than two millions,—and yet that handful of people has been able to contend with the powers of Europe, and still does maintain a navy which would be fully sufficient for us. She is now supplying France with 5,000 men, she is stripped of all her trade, and consequent duties thereon, and in this impoverished state she keeps up her navy. Should not we be able to support a navy—whose means are increasing beyond all former example?

What is the navy of Portugal? It is greater than we contemplate, and yet what is Portugal compared to the United States? It is like a school boy compared to a giant, and yet they maintain as much navy as we want. Though her power is not sufficient to contend with many other nations, yet her navy gives her a respectability, which she could not have without it, by which she maintains her ground among the rank of nations.

We shall now recur to the article of expence, under which I would premise that it is the cheapest protection to our commerce to have a naval force. The gentleman tells us that the average expence of the British navy used to be six millions sterling per annum.

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Mr. N. said he was not of the opinion of his colleague that it was perfectly trifling, because the money merely shifted hands: he considered this as a serious thing, although it was thought a trifling circumstance, as the money was to be spent in the United States.— Was it of no consequence that money should be drawn from the labourious hand of our citizens? His opinion was that this was a matter of the utmost consequence, and that it was a dangerous thing to keep too much money in the hands of the government. He believed his colleague was not merely influenced to his own opinions, for in his view the arguments of that gentleman were rather an objection to the establishment than otherwise. This measure would certainly exasperate Britain on the one hand, and ruin our nation, while on the other, it may carry your government beyond where you wish it to go, and from this double effect, both of which were dangerous to our interest, it was improper.

The gentleman from Pennsylvania made some statement on the subject of revenue, which was very similar to that made by the gentleman from South Carolina this morning. He however confined his estimate to the expences of this year: but if we are to prepare for a war of several years, it is not enough for us to enquire whether there will be a balance upon the provision which is made for the present year, but we must look two or three years forward to see whether agreeable to our means we can bear the expence. Mr. N. said he had made a statement of the increase of expences which our government would acquire in the years 1800, 1801 and 1802.

Expenses for 1800.

	Dollars.
Civil list, &c.	1,000,000
Debt	3,800,000
Permanent army	1,500,000
Additional do. (now raising)	2,500,000
Annual support of the Navy	4,000,000
Fortifications, Arms and Foudries	700,000
Instalment of Dutch debt	400,000
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Additional interest on new loan	13,900,000
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Expenses for 1801.

	Dollars.
Civil list	1,000,000
Debt, including interest and new loans	4,200,000
Permanent army	1,500,000
Additional do.	2,500,000
Annual support of the Navy	4,000,000
Deferred debt	1,200,000
Instalment of Dutch debt	500,000
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M m m Dollars 14,900,000

Expenses for 1802.

Civil list, &c.	1,000,000
Debt, &c.	2,200,000
Permanent army	1,500,000
Additional army	2,500,000
Annual support of the navy	3,000,000
Deferred debt	1,200,000
Installment of Dutch debt	1,200,000
	15,800,000

Dollars 15,800,000

All this time we have not got the fleet which has been supposed to be necessary for our defence, for there is but half the number of 74's in this statement which was recommended by the Secretary of the navy. When these things are considered, it must appear that gentlemen ought to stop where they are, and not begin an establishment to increase expenses for an object which is not necessary, especially for present defence; this is really acknowledged, by the vote given the other day for an appropriation to purchase timber: it is not for present safety, but for a future establishment that gentlemen are about to give their vote. What may we expect the effects of this bill will be? Is it not in fact disarming our country? Is it not crippling us from making other exertions to prevent any attack by land? You cannot get a fleet to protect the country, and therefore you should not go into the expenditure of your money to prevent, or repel an invasion.

If these ships were not for immediate use, which they could not be, for they could not be compleated for perhaps two or three years most probably, if so, Mr. Nicholas said, he would ask gentlemen to attend to the propriety of building ships at this time, when it was acknowledged every thing was at a most exorbitant expence: would it not be better to begin this busines in time of peace? If these vessels are to be provided for another war, would it not be best to wait till the present war is over, when you would not only be able to raise money easier, but you would be able to expend your money to much greater advantage, for almost every article that will be wanting is at a much higher rate than they will be at that period.

The rate of seamen's wages is excessively high. 17 dollars per month, is much higher than we may expect to pay in time of peace, and the price of money at interest is nearly double to what it will be then, and therefore if gentlemen wait for that time, they may go as far, or even farther than is now contemplated, with much less disadvantage; but its expence is now so enormous that he wondered gentlemen could attempt the measure, especially when they had given no good reason to go into it. He was of opinion that it never would be found useful, but if ever it would be proper, this was a very improper time to enter into it, and he hoped it would not prevail.

The question to strike out was negatived, 50 to 40.

Mr. J. Williams moved to strike out that part relating to sloops of war. He said he was fully convinced that we had sufficient small vessels built, and building, and if it should appear to the government that more were wanted, it could always obtain them from the merchants for the service, but this was not the case with large vessels; no merchant would attempt to build a ship of the size of 74 guns, and therefore if they must be had, government must build them. The total number of vessels now in the service was 39, which he thought was a number quite sufficient for our trade in the American sea.

Mr. Champlin observed that the gentleman put his judgment in competition with that of the Secretary of the navy, who had given his opinion that these small vessels were indispensably necessary for present use. He wished to know whether it was a proof of the economy of the gentleman, to vote for the 74's and refuse to vote for these?

Mr. J. Williams said, he had made the motion to expunge the building of the six ships to carry not less than 18 guns each, upon the principle which he had before detailed, because ships nearly of this class, could be furnished by merchants, at any time, should they be wanted, and because, he was of opinion, there were a sufficiency of ships, nearly of that burthen, already built and building. He had voted against the striking out of the six seventy fours, not that he thought the whole was now necessary, but with a hope that six would be reduced to three—and the motion he had made would also be agreed to. In that case, he was persuaded that, three seventy fours, together with the ships of war built and building, would be sufficient for the defence of our sea coasts, and give that protection to our commerce, which the commercial interest ought to request. Mr. W. said he would not follow the gentlemen in their arguments relative to the maritime force of other nations, as he thought them not applicable to this country, and said he, all we have to consider, is, first the necessary force for our defence, and secondly the aid we can consistently give to commerce, taking into consideration the welfare of the agricultural interest, and the revenue we have, or may expect. Mr. W. then went into a calculation of the number of seamen which must be employed on board the vessels built and building, and contemplated by the bill, and observed, that in proportion to the numbers taken from agriculture, the prices of labor will be enhanced, and in time of peace would be lost from agricultural pursuits. Again, said he, as the agricultural interest is injured, will it not effect commerce—because if so many seamen are to be taken for public service, the merchants must give higher wages for seamen, and the surplus of our agricultural productions lessened in their prices by reason of the expences of transportation—as he conceived the agricultural and commercial interests were reciprocal, we ought to act for the benefit of both.

Mr. W. then stated that provision was to be made for manning the vessels now employed and building, to wit,—

6 ships of 44 guns,	400 men each,	2400
2	36	340
1	32	260
9	24	220
3	20	160
6	18	140
5	14	70
8 other vessels, say		400

Total, — 7390

If the whole is agreed to as contemplated by the bill, the number required will be

6 ships of 74 guns,	650 men each,	3900
6	18	140 do.

— 12,130

He made this calculation to shew if the whole was agreed to, what number of men would be required to man the ships of war, and if it would not be thought we were going too far, in the present situation of affairs, however, if the majority of the house tho' it most adviseable, he should give up his opinion, in hopes that the commercial gentlemen would agree with him in causing an additional tax on commerce, which would not extend to that of agriculture.

Mr. Josiah Parker hoped the gentleman would not be led nor driven in his vote on this subject to any conclusion but what might be dictated by his good sense, but that he would be drawn to consider that as he had agreed to the larger ships, the smaller were as necessary to go in the protection of our West-India trade, for there they could be of essential service, because the French have no force there that will exceed those of the United States. This, he said, would relieve our larger vessels, which could be sent as convoys to our European merchant vessels, for which purpose our trade had lately been forced to employ British vessels.

He was surprised at the gentleman's objection on account of the want of men: these six vessels would not take more than 600 men, which could not materially diminish the stock of our sailors, especially when it was considered that we have the very best nursery for seamen in the world: we have better opportunity to procure seamen than any other nation upon earth. Our coast is very extensive, and the young men who reside near the sea, take great delight in a sea-faring life: the ocean is their corn-field. From their use to the water, and the management of our small craft, they very soon become able seamen, and capable of any employ on board.—Indeed it is impossible to say what number of seamen there are in the United States. But we may safely conclude that there are enough for our service, for we never hear of the numerous coasting vessels wanting men. The motion was negatived.

Saturday, February 9.

An engrossed bill to regulate the collection of duties on imports and tonnage, was read and passed.

A report on the petition of Bernard de la Marquesi, claiming pay for services in the army during the war, was made by Mr. D. Foster, which was unfavorable to the petitioner, and to which the house agreed.

The house went into a committee on the report of the committee of claims, on the petition of Stephen Sayre, which was unfavorable to the petitioner. The circumstances of this claim are, that Mr. Sayre being at Paris, was requested to go with Mr. Commissioner Lee as Secretary to Berlin, for which he claims compensation suitable thereto; part of which he had received.—This claim was first brought before the house in 1793, and was once reported upon favorably by the committee of claims, but in the house the report was disagreed to. The claim underwent considerable debate, and was supported upon the propriety and justice of the claim, by Messrs. Dayton, S. Smith, Varnum and Brooks, —And opposed on the different grounds of deficiency in the appointment, and on the credit of the examination and determination against it by a former house—by Messrs. Craik, Macon, Gallatin, Bayard, D. Foster, Griswold and Gordon. The committee rose.

The question to concur with the report of the committee of claims was negatived, and the house concurred therewith.

Mr. Harper then proposed two resolutions in conformity thereto, for allowing the claim, when Mr. Griswold moved to refer them to the committee of claims: this was negatived, 35 to 32. The resolutions were therefore left to lie on the table.

Adjourned.

Monday, February 11.

An engrossed bill, for the augmentation of the navy, was read, and on the question for its passing,

Mr. Eggleston said he could not entertain the hope of changing the vote of any member by any thing he could say in opposition to this bill, but he conceived it his duty to offer his objections as a reason for the vote he was about to give. He was opposed because he thought enough had already been done in this kind of protection, considering our danger from any invasion, and the inability of these vessels to afford the aid contemplated in case of that event, which he did not apprehend. He believed the vessels built, and building, which would be in the service, were sufficient to afford protection to our commerce against any depredations to which it had been exposed. But he did not think the present state of our finances would at all justify the expenditure of any more money than was already authorised. This he thought had been so ably proved by his colleague (Mr. Nicholas) and the gentleman from Pennsylvania, that it would be unnecessary to take it upon that head, unless it was determined to resort to new loans and new taxes, which would be

very improper in a cultivating country, where new taxation ought not to be resorted to, because it was proper to leave the industrious farmer to the benefits resulting from his farm, without oppressing him with taxes without his receiving any advantages.

Since the United States had settled an independent government and shaken off allegiance to the British government, he said, our growth in population and in wealth exceeded any nation upon the face of the earth, either ancient or modern, and all this without a navy. This he thought a sufficient argument why the bill should not pass, except some stronger arguments could be used in favor of it than what had been produced. Agreeable to the arguments of his colleague that one he meant who was so much in favor of a navy, and who had always favored the measure, agreeable to his ideas, it was no matter how much money was drawn from the hard earned labors of the industrious father of a numerous family, provided that the money is used in the country; provided that it is to equip a fleet, to fill the pockets of surveyors, collectors, and a numerous train of dependants of various descriptions. It is, in a word, robbing the bee to feed the drone. But the situation of our affairs does not warrant the measure; and besides, if these 6 ships were in commission they would not be effectual to the avowed object—the protection of our coast from invasion; we should then have to resort to those means of defence which we have formerly used, and with success: our militia will be sufficient to protect us against all attempts that can be made. Our increasing population will be a safe protection from dangers of this sort. Our safety and prosperity do not depend on a navy, as the gentleman from South-Carolina supposed, when he drew the comparison between us and England. The situation of that island was materially different from ours; he conceived an invasion, so much talked of, as an improbable event, and if improbable, we ought not to resort to a preparation against it, when it was by so expensive a mode, and especially as a mode far less expensive, would repel the evil feared. He was surprised that gentlemen should talk about the force of these ships, as a balance against the power of an European navy: he hoped we never should be brought to the waste of so much blood and treasure, merely for motives of ambition, as the government of England had done: and yet the naval power of that nation was called up for our example! He hoped we never should be precipitated into their follies, vices and miseries. He rather hoped the advice of the former President would be attended to on this subject. The gentleman from South Carolina referred to the advantages which Holland obtained from a navy. A less similar nation could not have been produced. They, from their straitened territory, were obliged to keep up a navy: it was well known that they were obliged to build their houses upon the water: while we have an extensive territory, on which no dangers of invasion can arise, for he did not believe that any nation would ever engage in the enterprize. The gentleman might as well

by there was a necessity for the people of the United States to go and build their houses on the ocean, as that there was to resort to a navy for defence.

Mr. Gallatin considered this bill of such importance, and forming such a new era in our political career, that he would beg the indulgence of the house once more, while he made a few observations, in which he should view the subject more generally with respect to its merits, than he did the other day. He was desirous then to drive gentlemen into some arguments to show the necessity of the measure, and also to bring the committee who reported the bill into some defence of it, and to shew the ground on which they bottomed it. He had supposed that such a measure could not have been adopted during the present session, because when the subject was before the house last session, such a proposition as this was not even made. He said he was not at all satisfied with any answer that had been given to his attempts to prove that the fall of insurance was not owing to the navy, but on the contrary, was fully grounded in the opinion.

Mr. G. conceived that all the grounds of argument in favor of this bill, must be in one or all of three points. First, to protect this country from invasion. Secondly, to protect our commerce, or Thirdly, to give us a weight in the scale of nations. These three he would consider, in order to shew their fallacy.

With respect to invasion, he did not believe, nor did he conceive any gentleman on the floor thought that this country could ever be invaded, or that invasion would ever be attempted unless it was by a nation, who possessed a great superiority at sea. Last war this country was invaded by Great Britain, and none but such a nation could hope for success. If therefore it was to be attempted by the largest maritime power in Europe, of what use could our six 74's be? It is not to them we are to look for defence; no, defence can only be found in the people themselves. He believed that the event of this attempt by the British the last war, when even the most powerful nation of the world in her navy, failed when we had no fleet, would disgust any nation from ever again making the attempt. He did not believe that the apprehensions of gentlemen were serious; though they might conceive it possible at some time, yet he could not believe they feared it at present, and not seeing that danger, he saw no necessity to apply a large sum of money to this object, when it might be applied to a more important purpose. As to what has been done in England or Holland, the very argument itself shows that it is not applicable to us. Mr. G. said he was told by the gentleman from South Carolina that his observations in relation to the effects of a navy upon commerce, was a mere school boy calculation, and not at all becoming a statesman, otherwise he should consider it in a different point of view, and that the British nation owed their very existence to a navy, and that by it she was preserved from those wars that desolated other parts of Europe. Now,

the two nations not being similar, what is applicable to one, is not to the other: it cannot be ascertained that a navy will preserve our political existence from the incursions of France, or any other power. Last war, without a navy, we were able to preserve ourselves from being a province to one of the most powerful naval nations. With respect to Holland, their fleet never prevented them from being invaded: we know, on the contrary, when their navy was in considerable power, and a large army in motion besides, they were invaded with success by the French. However, not believing any gentleman will build on this foundation, it will be needless to enlarge.

Secondly we come to the ground on which those gentlemen build most strongly, to wit, that a navy is useful for the protection of commerce. 1st Mr. G. said it would be necessary to examine the nature of that commerce, and how far it would comport with the interest of the American people to protect it by this means: because, when we raise a navy that is to be supported by all the people of America, it is necessary to consider how far that measure is for their interest.— He agreed that the agricultural and commercial interest of this country were connected in a certain degree. The merchants of this country by opening new avenues of trade seeking a market for their produce. So far as that goes, their interests are connected, and so far only would the farmer be interested in the naval protection of commerce. But it is to be observed, that more than half of our commerce exists in articles of import, which we consume, or trade with. According to an official statement, it appears that the whole of our commerce for the last year was to the amount of 61 millions, and that 28 millions of it arose from articles of our own produce and the remaining 33 millions from the produce of other countries, and therefore it cannot be thought to have any use to our agricultural interest, and thus the government is enabled to raise more taxes from the merchant than from the farmer. So far as relates to that kind of extraneous trade, it need not be protected in any degree, at the expence of the nation, for it ought to protect itself, and if it cannot afford profit for that purpose without national aid, we ought not to have any thing to do with it. It is so much the better if we have it, but if we cannot procure it to some advantage, we ought to have nothing to do with it. This relates to the 33 millions. The 28 millions we may consider as our own trade. We will take into consideration this branch: the profits of this we must consider as divided between the merchant and the farmer, but the greatest share must uniformly go to the merchant. However, when we take this into view, we will consider that with one half the farmer has nothing at all to do; and the other half is divided, so that the farmer at most has to do with no more than one fourth of our whole commerce. By this, he said, he would wish to consider what is the proportion of expence paid, and what received by these two descriptions of our citizens. But the other day we were told by

the chairman of the committee, (Mr. J. Parker) that it was no matter what expence the navy was, for it was only shifting the money from one hand to another. No argument can be more fallacious, or more improper. But as the gentleman talks of a transfer of property, it will not be amiss to examine the proportions to be paid, now we are going to raise the two or three millions. It seems important also to know where the profits of the commerce, as well as the expence of the protection are to fall. If we raise a tax, say five millions of dollars, we may presume with safety that nine tenths is paid by the consumer, and perhaps the other tenth by the mercantile part of the community. How are the benefits of this five millions felt, suppose the whole of it is applied to the navy? The first half of it goes entirely to the protection of commerce which is not of our own growth, and therefore can benefit none but the mercantile interest. Of the other half, which relates to our own produce, the profits being divided, the benefit of not more than one fourth is belonging to the agricultural, while three fourths goes to the merchant. Thus we pay nine tenths of the duty, and receive but one fourth of the advantages of this commerce, to the agricultural interest. Thus Sir, said he, it must be supposed to make a very material difference to us who are engaged in the farming interest, to know how far we are to receive the benefits of a tax that we are called upon to pay; this, Sir, is what the gentleman calls more childish, and not statesman calculation. He said he had gone thus far into the subject, because of late he had heard so much about the protection of commerce; he agreed that it would be right to protect commerce, so that that protection did not take more expence than the profits of commerce yielded; but farther than that, he would never agree to go.

So far, Mr. Gallatin said he had nearly taken it for granted that commerce ought to be protected by a navy, and the profits be divided as well as the charges, but it was not so: this was one of the positions which he would altogether deny. He conceived that the prosperity of commerce depended upon the wealth of the nation, and that wealth, first upon the industry and attention of its citizens, and next upon the protecting hand of their government. If we draw our attention to any nation, we shall find that their wealth has been owing to these two causes: and the reason why we are so often deceived about the wealth of Great Britain, is, because we confound the effect with the cause. The industry of that nation, protected by their laws, has enabled them to support a navy, but it does not follow that that navy created their wealth, or their commerce—that their manufactures, industriously attended to, have been created by the navy! That cannot be supported by facts. Mr. G. observed, he had before said that Holland with a small navy had a large commerce, and Spain with a large navy had scarcely any; this was in order to show that commerce could flourish without a navy, and a navy might exist without commerce, and that England was not to be set up for all nations in that particular. But was an answer given to this by the gentleman who took it up, when he went into a view of the general causes which destroyed the navy of Holland or the commerce of Spain?

Not at all. Let him point out any nation, taking those countries out of view, where a navy has given a proportionate commerce.

We will now go to another country ; the Hanse Towns ; compare them with Sweden and Denmark and Russia : once these towns had a pretty powerful armed force at sea, but they found their commerce would not answer the expences of keeping up a fleet, and therefore they prudently dropt it altogether : they have not now a single gun boat. Sweden and Denmark have considerable navies, but what is their commerce ? Merely trifling. Russia has a large navy, and no commerce at all. The Hanse Towns have a commerce twice as large as those three nations together, and an hundred times as large as Russia alone. Therefore I am right, from these examples, in saying that a navy is not generally an instrument of protection, but of power. There can be no doubt but the merchants of Germany would have excited Hamburg to have kept up a navy, if they could, but Hamburg knew that to pay a fleet to protect them would not answer. Germany enjoys the benefit of the commerce of those towns, for though the empire is as often engaged in a continental war as any other nation, yet they carry on their commerce by means of those towns, without any injury. Hamburg is well aware that her commerce would be annihilated the moment she enters into a war, and therefore she avoids the occasion. He said he had not heard the whole of this war the commerce of Hamburg had been materially effected in any greater degree than that of all neutral nations, not more than Sweden or Denmark who have fleets.

In relation to Holland, it is well known that their fleet arose from their local situation : when that country was first, in fact, created, they carried on at the same time commerce and war with Spain. The whole of their merchantmen were armed, and by them they obtained conquests in the East-Indies ; whenever they sent vessels abroad they might make some conquests, but they must make some commerce. They then became powerful, and threw a considerable weight against the power of England, and even attempted to conquer that navy ; but they found themselves too heavily taxed ; they were compelled to drop their navy, and from the time of the treaty of Utrecht, they never have been so strong at sea. Now, what is their naval force ? They are never out more than about two weeks together. During this war they have sent two fleets out, the one was taken at the Cape of Good Hope ; the other as soon as it left their harbors. They are now, from their blockaded ports, as though they had no navy ; it dares not protect their commerce. What then is the object of commerce with them ? While they are at war, it is annihilated, and while at peace it has so considerably failed that it is not to be compared to what it was 100 years ago, and yet they have a navy. Their commerce does not diminish in proportion to their navy, but as their industry diminishes. But so far are they from being weaker at sea, they have not been involved in half the wars for this century past as they were before, when they had a powerful navy, and they have suffered less in their commerce in that period.

If from these parts of Europe we turn our attention to ourselves,

and examine our situation, what is it? We have had no navy, no protection to commerce, and yet our trade has increased during the war to a much greater extent than we could have expected, and yet have been harrassed by two nations in succession, and who have considered they were not to be bound down by the law of nations: both the English and the French have thus trampled upon our neutrality; and notwithstanding all this, what has been our situation? Why, year after year our exports and imports have increased. As he had stated before, it rose to the great sum of 61 millions of dollars, notwithstanding all the depredations, and the fall which our produce had experienced; and the increase could be for no other reason than because we are out of the war. He thought that if gentlemen would compare the price of a navy, and the profits from trade, they would find a navy to cost more than the clear profits of commerce put together. That those profits were unequally divided between the merchant and the farmer, for while the farmers paid more, they received less, and finally that it was a sure means of involving a nation in a war, in proportion to the magnitude of that navy. He believed if we had had a navy in 1793, when the first depredations on our commerce commenced, we should have been before now parties in the war, connected with that side which most suited our views. On that view of the subject, we are not to consider the amount of legal captures and condemnations, but the immense losses our commerce must sustain if we were actually engaged in the war. This amount is beyond the power of our calculation.

In England the price of protection is the total amount of her immense debt: it is but little consolation to us to be told that England has spent more by land than by sea: it is her navy that has involved her in continental wars. While the industrious manufacturer, has labored for his maintenance, the government have laid their hand upon the fruits of his industry, and applied all the wealth of the country to support her navy and army.

The house would remember, Mr. Gallatin said, that from the statements drawn up by the gentleman from South Carolina, and Virginia, and himself, which did not materially differ from each other, two facts were maintained: first that this fleet was to be built and supported out of the products of the loan; and secondly, that the peace establishment must depend upon the land tax that was laid on the country last session.

These facts were not disputed. First, the present expenses were to come out of the loan. This, he said, led him to the subject of the loan which had been opened, which was to consist of five millions of dollars, to be paid for at the rate of 8 per cent interest, redeemable in 10 years: that is, we are to borrow money at 8 per cent to build ships which cannot be put in commission for two years, and perhaps not during the war, and therefore it is presumable that they are wanted for a purpose which is not avowed. But with respect to the loan, as the propositions were published, he would not hesitate to declare his opinion that the rate was too high; for he believed the

loan would be as well filled at a lower rate of interest. There was no doubt but it would principally be filled by banks and foreigners, or that it would principally be in the hands of foreigners. [The Speaker asked the member whether that was to the question.] Mr. G. said undoubtedly it was, as he meant to show that this million of dollars was to come out of the loan, and if the navy was not to be built, it would not be required. The interest in his opinion was not only greater than it ought to be, but falling into the hands of foreigners, the result would be that 400,000 dollars, the interest on this loan of five millions, would be paid abroad every year: this he thought an important object, and very different from raising money among ourselves. Thus we were giving an enormous rate of interest, out of the country, and applying it to an object not necessary. If this bill was not to be passed, it would be unnecessary to make the loan for more than a million and an half of dollars for the present year: but to go a little farther, and repeal the bill passed last session for raising an additional standing army, the loan would not be necessary at all, as ten millions would defray all the other expences.— The gentleman from South Carolina (Mr. Harper) said that we pay no more than the British minister for interest. He believed that about 6 per cent was the highest paid there, but there was another material difference: they only paid merely a yearly interest, and it was never contemplated to reduce the debt. He hoped we should never get into that situation. They pay 6 per cent interest by selling 3 per cent stock, and they never mean to go farther. But suppose they did pay 8 per cent, what conclusion are we to draw from it? Are we to do the same? This should be no argument for our conduct.

It should be recollect that when this fleet is created, it must be supported in time of peace as well as war. He had before mentioned that no estimate had been given of the peace establishment of the navy; but he could show that if they went on with the fleet, the increase of debt that must take place, suppose it was not to last for more than four years, it would be necessary to make the land tax a permanent one, therefore he was right in saying that the farmer was nearly interested, because he was to pay for it.

The gentleman from South Carolina had told the house that our population was increasing in such a rapid way, that we might, without being frightened calculate upon an increase of 10, 20, or 30 millions of dollars to our debt, for what we now consider large, in a few years will be nothing! Thus we are to make ourselves easy and increase our debt upon the bottom of an increase of our population, and not of manufactures or agriculture. Mr. G. really gave credit to the gentleman's candor: it was a truth that this naval establishment could not be contemplated at an expence less than 20 or 30 millions of dollars. We have had statements of the expence in the present year, and also for three succeeding. Agreeing to all that was advanced by the friends of the measure, and supposing the 74's would cost no more than was estimated, though he believed it would far exceed that estimate, he had made a statement of the increase of expence in those four years.

	Dollars.
For the year 1799	12,650,000
do. 1800	14,850,000
do. 1801	15,450,000
do. 1802	16,800,000
This will make our debt amount to	19,750,000
Our annual revenue being	10,000,000

Therefore whatever exceeds that sum, must be provided for by new loans. From the sum of 19,750,000, must be deducted 2,300,000 dollars, which will be paid of the Dutch debt: this leaves the actual increase of debt to amount to 17,450,000 dollars for those four years only, and therefore if the establishment is to last but 4 years, and the cost be what is submitted to us, our revenue remaining as at present, we shall have an increasing debt of seventeen millions and a half of dollars. This cannot be denied, or refuted. But this is nothing; we are told that we shall be able to bear it! No doubt but we shall, but not without difficulty. We are told farther that we pay less taxes than any other nation. I know that we pay less than Britain, Holland, or France, but do we pay less than those nations did at our political age? The navy of Great Britain has been established an hundred years; that of France 150, and that of Holland 200 years, but with us this establishment is just begun. If we consider our political existence to be but 20 years, it is not astonishing that we pay less than those nations: but we cannot suppose, if we follow their steps, that we shall have less to pay in a few years. Our present revenue to the general government is ten millions: to the state governments in poor rates, &c. &c. we may estimate two millions more. This upon the proportion of 4 millions of taxable inhabitants, makes an average of 3 dollars per annum for each inhabitant. Mr. Neckar, the able financier of France, under the old administration, and its expensive support, estimated the average of tax there to be somewhat less than 5 dollars on each taxable inhabitant. The amount of taxes in Great Britain, he said, was 15 millions florin: this was to be divided between 8 millions of people, which was the number before the war. But from the immense wealth of that nation, they are able to raise taxes with less oppression agreeable to their population, than most nations. He believed the sum now raised in the United States was as much as could be raised with convenience, more, it was true, could be raised, but those already, were felt with considerable weight. In the interior of the middle states, the circulating specie was so small, that it was with difficulty enough it could be collected at present to pay the taxes, and therefore they are oppressive: the people were willing to pay, they wished to support government, but they cannot pay. This is the case with people who cannot be charged with being disorganizers, but some of the warmest friends of government. He was satisfied that in the country where he lived, the amount of the direct tax would take more money than was there, and they had no means of paying.

Having considered the manner in which the money which was to be applied to the navy was to be obtained. Mr. Gallatin said in the

third place, agreeable to his proposition he would examine another object of the navy, which he believed was a favorite one with many gentlemen on that floor: to wit, an increasing of power. A navy has been made a great instrument of power so far as relates to the increase of office: it is made the means of extending and increasing the influence of government alone: if that is necessary, so far it might be said to be useful. But, he said, what he meant chiefly, related to power abroad. The principal uses of a navy had generally been in this relation, either to protect foreign colonies, or else to increase the weight of a nation in a political view. So far as it relates to colonies, it cannot relate to us, for we have none, and he hoped it would be a policy ever adopted by this nation never to desire any, he hoped we never should extend our bounds beyond our own connected possessions. With respect to the Archipelago of America, the West-India Islands, he hoped this country would never seek to obtain more than a trade there, but never to possess any, for as sure as we did, so sure we should fall into the wars consequent on such possessions. But he would ask whether the moment we were in possession of a navy, it may not be made an argument for the conquest of some colony from our enemy, if we had any? He considered this bill, so far as it was made an instrument of power, so far it would tend to defeat the other object which is avowed: so far as it tends to involve us in a war, so far it fails to protect our commerce: so far as it attempts to regulate the political balance of Europe; so far it will have the same effect. One effect it is certain to have, which must injure commerce, that is in its raising the wages of seamen, unless recourse be had to an expedient which he hoped never to see used—impressment: he did not believe that would be attempted at the present time. The higher the wages of seamen is, the less profit will arise from our trade.

Mr. G. then proceeded to consider the manner in which a navy might be applied as an instrument of power. He believed indeed that this was the most favorite object with the supporters of the bill. He would not dwell on the manner in which it could be applied to increase executive influence and power at home by the increase of officers and contractors, by the numerous appointments and large expenditure of money it would give rise to. He meant only to speak of the navy as an instrument of power abroad. And it appeared to him that it had been applied for that object by other nations either as the means of acquiring or protecting colonies, or in order to increase their weight in the general scale of nations.

As to the colonies we had none, and he hoped that it would never become the policy of the United States, to seek for wealth and power in the conquest of foreign possessions, which would most probably involve us, as they had done other nations, in perpetual wars and incalculable waste of money. Mr. G. hoped that satisfied with the cultivation of our immense territory, with the improvement of our domestic manufactures, and with the commerce of the colonies of European nations, we should never attempt to become their possessors.

Considered, however, merely as an instrument generally of conquest and power, a navy has a tendency to defeat its object as a protection for commerce, by inducing us to take a share in European wars and depriving that commerce of the immense advantages derived from neutrality; nor can it be deemed unimportant that every national armament, by enhancing the wages of seamen on board merchant vessels tended materially to injure commerce or at least to render its advantages less beneficial to the farmer and consumer.

But in what manner is this navy to be applied in order to give us a weight in the scale of European nations? And what are the general political objects of the supporters of this new establishment? As an inducement to pass this bill we are told on this floor, that the navy of Great Britain has enabled her to assume the first rank among the nations of Europe, and above all to curb the ambition of France. From higher authority we have heard that it is a most desirable object to prevent that relapse of Barbarism with which now that nation threatens Europe. And at the opening of the first session of this Congress, the President of the United States told us, "It is a natural policy for a nation that studies to be neutral, to consult with other nations engaged in the same studies and pursuits." Will not now the converse of that proposition be supported? Will it not be said, that "It is a natural policy for a nation that studies not to be neutral, to consult with other nations engaged in the same pursuit." And if under the impression of the first sentiment an embassy to Prussia originated, will not our administration, under their present impressions, though this navy is the scale of a new coalition against France, form a more intimate connection with Great Britain, and seek for nations engaged in similar pursuits with themselves, by sending embassies to Russia and Constantinople. Our navy is intended for the common service of mankind. The crested banners of Mahomet and of America are to re-establish true religion in France. And in order to check a relapse into feudal barbarism, in order to promote civilization in Europe, we are to receive the assistance of the Tartars of Russia, of the Cossacks of Ukraine, of the Mamalukes of Egypt, and of the Moors of Africa. These are designed as our hopeful allies; and I should think, continued Mr. G. that instead of wasting the treasure and shedding the blood of the freemen of America in this new crusade, our quota, to make the whole an homogeneous mass, ought to consist of Cherokees and Mohawks.

Mr. G. then entered into a view of the objects, which he tho't it would be the true policy of the U. States to pursue. He thought they had gone beyond all bounds, and yet it was farther declared to be necessary still farther to expend our money and blood to prevent those evils which from our distant situation from Europe, we might prevent at less expence, and without the danger of being involved in the war, go on peaceable and happy. He did not think that this was an indulgence of "visionary dreams," as attributed to him, but this security he had always conceived to be well founded, and that we were not at all liable to be tossed with the troubles of Europe, although we shall not incur a debt through a navy.—

These were dreams he had always indulged, and still asserted, that we should be a happy and peaceful nation, without endangering the attack of an enemy, but if they would attack us, he did not think we could prevent it. He never wished to see the resources of this nation accumulated into the hands of the executive branch of government, to employ his power by increasing our weight in the scale of Europe, for without it, he was persuaded we should be happy as we heretofore had been; for if this spirit were indulged, it would be impossible to ascertain where we are to stop: if we proceed, when we are told that an increase of debt and taxes are contemplated, it is time to be alarmed; for neither six nor twelve ships of the line will do for us if we are to follow the example of Europe. On these accounts he confessed he felt alarm; and these were his reasons for again rising to oppose the bill. He trusted after the present ferment was abated, which agitated the public mind—when their successors came to take their seats on this floor,—if at present the house had firmness to reject the bill, that would never again be attempted, and he believed that the people would change their minds respecting the necessity of a navy, and their representatives would act in conformity thereto.

Before he sat down, he would make a remark on what was quoted by the gentleman from Virginia, (Mr. Parker) from a gentleman high in office, in the government, Mr. Jefferson. He professed a profound respect for the opinion of that gentleman, but whatever opinion he might entertain of him, he could not avoid preferring his own, for it was not that authority, though high, that could induce him to adopt a measure which had been recommended ten or fifteen years ago: he did not conceive the passage was at all applicable to our present situation. It was certain many years ago that gentleman did say that a million a year might be laid aside towards a navy, but he could not then have been apprehensive of the debt that would have been incurred, and the great expence for land forces which the United States had since entered into. As it could not be supposed that the same reasons existed, because the same means did not go to support a navy, he presumed that it was not necessary to draw a comparison of the periods. He hoped the law would not pass.

Mr. Josiah Parker would not have troubled the house again on this subject, had it not been for an observation of his colleague (Mr. Eggleston)—he began by saying, he did not expect to change a vote by any thing he might say, nor do I believe he will; he tells us our commerce has increased without a navy, this will be admitted, but at the same time he should have calculated how much more it would have increased, had it been protected by a naval force: but the sentiment which concerned himself and upon which he rose principally to remark, was, that he (Mr. P.) did not seem to care how much money was expended upon navies and armies, though it was drawn from the industry of fathers of numerous families, to support army

and navy agents, collectors, &c.—This says the gentleman looks like taking from the industrious bee to feed the lazy drone. Mr. P. thought such a sentiment unfair, as it respected him, and did he not know the rectitude of that gentleman's intentions and actions generally, he should ascribe to improper motives the expression; as he knows very well that although I have ever been in favor of a naval force to protect us at home and our trade abroad, that I have invariably been opposed to standing armies, ever declaring that with troops to garrison our extensive frontiers, aided by a navy, and supported by our grand bulwark, the militia, that we have nothing to fear from any foreign power whilst we remain United.

As I am up, I will offer some remarks on what fell from the gentleman from Pennsylvania, (Mr. G.)—he asked what our six 74 gun ships would be able to do against the powerful nations of Europe? Mr. P. did not believe they were intended to fight all those powers at once, but be used for the protection of our own coast and commerce, and thinking as he did, a naval force the most natural, the safest and cheapest defence of this country, he was in favor of it.

The European powers have distant possessions, which they have to guard and protect against each other. Great Britain, France and Spain, have valuable and extensive colonies in the East and West Indies, and of course a great part of their navy is employed abroad: We neither have nor do we wish any; as we have more territory than we can fill with inhabitants in a century, our soil and climate being such as to gratify our most sanguine expectations, this being the case, our navy has no foreign possessions to protect, and may always be drawn to a point at home. If either of the maritime powers were at war with the United States, some other would probably step in to prevent the warring neighbor from having too great an ascendancy, if he should be victorious. In this case our small navy would be enabled to annoy the valuable trade of either G. Britain, France or Spain in our neighborhood, and keep us safe at home from invasion. We have no fear of an invasion from one nation, since she has heretofore failed in her attempt to subdue us when in infancy, compared to our present situation, the bold attempt ended in the disgrace of the assailing nation, and the establishment of our Independence.

France if her navy had not been so reduced, might perhaps be able to succeed in forcing an invasion; without a navy, on our part the event would be doubtful, and the repelling of which if they once landed, would cause much expense; and although we might succeed in repelling them, yet a part of our country might be ravaged and devastated. Mr. P. said he had no doubt but they would make the attempt if they succeeded in their great project in Africa and Asia, as their avowed object is universal dominion; their late arrete, declaring neutrals pirates on board their enemies' ships, he considered a declaration of war against the world; the grand effort of making all one family under the Grand Monarch Lewis Xlv.

was feebly attempted: but as the energies of that nation are now in action, and supported by military enthusiasm, they have advanced unhappily too far in their career; a great part of Europe and Italy have been conquered or revolutionized, and the rest much paralyzed; Africa now bends under its weight, and Asia is threatened and trembles for its fate. Should they be successful with their arms in every other quarter, and get together a navy, we might expect them to visit us; we ought, therefore, said Mr. P. to prepare for such an event. France seems to have seized the truncheon of Mars, and wields it successfully in two quarters of the globe, and yet is not satisfied. And Neptune has yielded his trident to Great Britain, who lords it on the ocean; but I expect at a future day when our unfeathered Eagle has attained full plumage and vigor, that it will explore its vast aquatic domains and snatch the trident from proud Albion and bring it to America; that day may be distant, but the time must come, when the United States will extend the same good and wholesome laws to others which her own citizens are governed by.

But the gentleman from Pennsylvania says, we are raising a navy to carry on a trade, one half of which does not consist of the produce of this country, or of articles consumed in the country. Mr. P. thought this a happy circumstance; it gave more employment to our merchants, our seamen, our carpenters, smiths, &c. &c. and enabled the owners of our forests to dispose of their timber to advantage, which would otherwise be lost, and enabled us to keep up a coasting trade, that was extensive, which was our nursery for seamen, with the *Fisheries*, the advantage of which was clear gain to the United States.

Is it not reasonable, said Mr. P. that our citizens engaged in trade should have it protected? If persons from the back or middle country, were bringing their productions to market by batteaus on the water, or waggons on land, and the roads or water courses were infested with banditti, to rob them, would they not think their government did injustice to them, and had lost its natural character, if means were not immediately taken to punish such banditti, and would they complain of the expence? he presumed not; then why complain of what is given for their protection at sea,—which we have as much or more right to than any other nation in the Northern Hemisphere, as we have a more extensive margin on the Atlantic.

The gentleman from Pennsylvania spoke of the Hanse Towns as having no navy and carrying on extensive commerce, he said they had not even a gun boat, he knows it is not in their power to raise a navy sufficient to protect their trade being environed by all the great powers in Europe, and if it was it is not necessary, as in time of war they are useful to the belligerent powers and necessary for the commerce of the German empire which protects those towns and they are generally left by common consent to furnish the powers at war on the Continent, but even they, small as they are, have not

escaped the fangs of the Terrible Republic, they have been forced into loans.

Mr. P. said we had no neighbors to fear, it is not in the power of G. Britain to injure us from Canada nor is it in the power of Spain to hurt us from Louisiana, the peaceful conduct of that nation has been uniform towards us. And I think we shall not aggress this or any nation. We want no navy for foreign conquest, for at home we have more territory than is useful at present.

The gentleman from Pennsylvania says our produce is sunk in value, this says Mr. P. is certainly incorrect, there never was a time before the present war, when our produce was so high as at present. Tobacco never was so high before, and wheat and flour is double what they are in peace; the gentleman says we carried on our last war without a navy, this was not so? We had a small navy and were unfortunate with it in a great degree, but it rendered essential service: more of our frigates were lost in our ports than at sea, as our harbors were alternately in possession of our enemy. But our privateers were more successful, had it not been for these and even the few vessels of war, we might not have had seats in this house now. It is well known when General Washington invested Boston, he had not powder to carry on a siege, and had it not been for the capture of a British ordnance and store ship by captain Manly, in a schooner of the United States, we must have abandoned the siege.

Grant our merchants this addition to the navy they will spread our sails to every breeze and every sea, and by that means keep up the price of our produce, but if this is not done, it will be left to foreign nations, to take our produce on their own terms and give us what they please in return, and in time of war so many ships are employed in the transport service that there would not be left enough for trade to carry off our bulky articles.

Mr. P. was sorry to find in all the observations which the gentleman from Pennsylvania had made on this subject, he insisted but for this navy that the new loan, and land tax would be unnecessary.—The gentleman ought to tell the house that more than 2-3ds of our revenues arise from commerce, only 3-5ths of which are required to answer all the demands of the present and proposed navy. There is no commercial nation that has a navy that does not expend more than its revenue from customs for its support, and protect its commerce, the land tax should be reserved to pay the interest of the debt which was the price of our Independence.

The gentleman from Pennsylvania tells us the people in the back parts of the country are not able to pay their taxes unless more of the money of the United States is expended among them than their taxes amount to. Mr. P. did not know what sums might be necessarily expended there in future, but he knew heretofore large sums had, that the army for the defence of our Western front

tiers had cost the union more than a million of dollars per annum for the last 6 years, and that an insurrection in his district had cost more than 1,000,000, upon the whole that the western country had cost more to the United States than any other part of it, which had added to the augmentation of our debt; that not as much had been expended to obtain peace with the Barbary powers, to relieve our fellow citizens from captivity in Algiers, to carry on negotiations with foreign nations and the present expence of our navy.

The opposition to this measure appeared to Mr. P. to be of a piece with the opposition which had been made to all the other measures of defence which had been proposed, he believed the western country would derive great advantages from the navy as it would secure their valuable and abundant productions from New Orleans, to foreign markets.

Mr. Otis observed that the gentleman from Pennsylvania, when he first sat out appeared to acknowledge the position, that a navy had been of some service, and would protect us from invasion, and he seemed to acknowledge that such an invasion might probably take place, but in the close of his arguments, we found him sending this small navy into the Mediterranean, to help the Turks and Arabs, and up the Baltic to join the Russians against the French.—Thus he probably expected that gentlemen who attended to his first positions would not follow him through all the labyrinths of his elaborate dissertations, and forget him before he came to change his ground in the close. To come to sober facts and sober reasoning: Mr. Otis said, he really believed that the small fleet contemplated would be sufficient to defend this country from invasion, for if ever this country was invaded, it would not be by a fleet of any European power, but by a detachment from that fleet. It is probable that we never shall embark in a war with any nation, but that nation will have other enemies besides us, and therefore we should be able to receive aid from that nation in addition to our own force: on which accounts and our distance from Europe, a small force will be serviceable. We know that a small fleet was a powerful instrument in deciding the controversy between this country and England, and discarding the idea that this fleet is ever to be increased, it is sufficient, to defend our bays and our rivers from the enemy. The very same argument would equally apply against fortifications. Is there any army that we can suddenly raise, that will be sufficient to repel invasion? The twelve regiments already raised cannot do it, nor can any force that we can suddenly bring into action. The gentleman might as well argue that the Fort on the Delaware, because it is not sufficient to resist a fleet, is of no use, as to say our little fleet will be of no service, because it will not be able to oppose one of the great fleets of Europe.

The gentleman further said that the agricultural interest were not interested in the carrying trade of this country. That at least half

of our commerce was engaged on articles of foreign growth, and that was no advantage to the farmer. If that were true, Mr. Otis said, he would answer that the gentleman ought to have indulged the other half with a suitable protection; but even if it was true, his arguments would not be in point. Though I have long thought he harbored that opinion, this is the first time I have heard him utter it. It is true that the carrying trade is not so interesting to that part of the community as to some others, but does it follow that they have no advantage at all from it? Numerous advantages arise from it: the farmer gets a better market for his produce and consequently a better price: he can sell with more ease than if money was scarce; the consumption is greater; his money is more secure, and add to these the accumulated wealth of the merchant enables him to purchase land with it. Therefore the farmer is immediately interested in the prosperity of that part of the community to whom he disposes of his whole productions.

Another strange assertion which he has often repeated on this floor, and which it is surprising any man should use but one who has never read history. It is, that the prosperity of nations in general is not to be attributed to their fleets. Now I will take upon me to assert that there never has been a commercial nation in the world which has not been maintained by her fleet, and not by her commerce alone, for that is subject to so many revolutions without the regular support of a fleet that it is impossible it should be established without it. Look to the origin of commerce in any nation, and see whether it ever sprung up without a navy. In Holland, commerce grew up with her navy. In France, when did commerce flourish equal to the period under the administration of the great Colbert, when they had a most powerful fleet. To be sure these countries have the misfortune to be in the neighborhood of powerful naval nations, and therefore agreeable to the arguments of the gentleman we must not bring them forward. Why does he refer us at this moment to Hamburg? Does he not know that it is the common interest of all the surrounding nations to guarantee to them their independence and safety? And yet Hamburg is to be brought forward! But even that place has not been able to escape—she has been obliged to pay her tribute; to submit to the degrading conditions that the French chose to put upon her, and this is exactly the situation the United States would have been in, had we tamely submitted to their chastisement. Hamburg has served herself by this, and indeed she could do nothing else, for it is only a city of Merchants. We may fairly predict that if this country was to become a country of merchants, and our farmers were to be alike slavish with them, we should be the same. Genoa by a like disposition lost their commerce and their fleet. They have been obliged to lie aside, owing to the siren songs that have been sung to them by a nation who have for some time been openly opposed to every sense of honor and dignity.

The question was taken by yeas and nays as follow:

YEAS.

Messrs. Allen, Baer, Bartlet, Bayard, Brace, Brooks, Bullock, Champlin, Cochran, Craik, Dana, Dennis, Dent, Edmond, Evans, A. Foster, D. Foster, J. Freeman, Glen, Goodrich, Gordon, Griswold, Grove, Harper, Hartley, Headman, Hosmer, Inlay, Kitter, Lyman, Machir, Mathews, Morgan, Morris, Otis, I. Parker, J. Parker, Pinckney, Reed, Rutledge, Schureman, Sewall, Shepard, Simnickson, S. Smith, Spaight, Sprague, Thatcher, Thomas, Tillinghast, Van Alen, Wadsworth, Waln, J. Williams. 54.

NAYS.

Messrs. Baldwin, Bard, Blount, Brent, Brown, Cabell, T. Claiborne, W. Claiborne, Clepton, Davis, Dawson, Eggleston, Elmen-dorf, Findley, Fowler, Gallatin, Gillespie, Gregg, Hanna, Harrison, Havent, Heister, Holmes, Jones, Livingston, Locke, Macon, M' Cle-nahan, M'Dowell, New, Nicholas, Skinner, W. Smith, Sprigg, Stanford, Sumpter, A. Trigg, J. Trigg, Van Cortlandt, Varnum, Venable, R. Williams. 42.

An engrossed bill authorising the establishment of docks, was read and passed.

An engrossed bill authorising the purchase of timber for naval purposes, was read and passed.

Adjourned.

Tuesday, February 12.

Mr. D. Foster reported a bill in favor of Comfort Sands and others.

Mr. J. Parker reported a bill fixing the pay of captains and commanders of ships and vessels of war of the United States,—

Which, together with a bill yesterday sent from Senate for concurrence, for organizing the troops of the United States, were severally committed to the whole house.

STATE DEBTS.

The amendment from Senate to this bill having been disagreed to, and committees of conference of both houses having reported, the house took up the report, and agreed to the same without division. The amendment agreed to, compelled the cession of the territory where fortifications, &c. were made, but at the same time allowed the jurisdiction of the state for serving civil process.

A petition was presented by Mr. Livingston from a considerable number of Irish aliens in the United States, praying a repeal of the alien bill.

On the question being about to be put for its reference to the committee of the whole house to whom the other petitions had been referred, Mr. Sewall, after some prefaratory observations moved, That the committee of the whole house, to whom were referred certain memorials, complaining of the act concerning Aliens, and other late acts of the Congress of the United States, be discharged from the farther consideration of the same, and that the memorials be referred to a select committee to report thereupon to this house.

This motion passed, Yeas 51, Nays 45.

Messrs. Goodrich, Pinckney, Nicholas, Craik, and Hartley were appointed. Adjourned.

Wednesday, February 13.

Several remonstrances were presented by Mr. Gregg, from Mifflin county, Pennsylvania, praying a repeal of the Alien and Sedition laws: he observed that insinuations having yesterday been thrown out about the respectability of the petitioners who had signed former petitions; he considered himself bound to state to the house that these memorialists were respectable freeholders, and this was the first time they had remonstrated on these subjects, and would not now, had they not felt strong propensities from the nature of these acts, to solicit a repeal of them.

He also presented some petitions from Cumberland county to the same effect, and he believed signed by equally respectable citizens. The whole number is about 1,600 petitioners.

Mr. Havens presented one to the same effect from Queen's county, in the state of New-York.

They were referred to the select committee, yesterday appointed on this subject.

Mr. Gregg reported a bill, to discharge Robert Sturgeon from confinement. Committed to the whole house.

A Petition from Samuel Sterne was presented by Mr. Tillinghast, praying encouragement to a work on medical enquiries, which he had with great labour collected. He prayed encouragement to this work.

Mr. Tillinghast moved its reference to a select committee which was negatived, 37 to 32. The petition was left on the table.

Mr. J. Williams, said when on the subject of the addition to the navy, he was pleased to hear some of the commercial gentlemen say, that they had no objection to an additional duty on commerce—As we had now said he made large appropriations, to protect commerce, he hoped no objection would be made to an additional duty on drawbacks, and from which he was persuaded a considerable revenue might be raised, without injuring commerce and thereby equalize the burden of Taxes as nearly as possible among all classes of our citizens; he therefore moved to lay the following resolution on the table.

Resolved, That the committee of ways and means be instructed to enquire whether any, and if any, what additional per centage is to be laid upon drawbacks paid upon dutiable articles exported from the United States, and that they report by bill or otherwise.

A report was made by Mr. Foster from the committee of claims, on the petition of John Tyler, the executor of W. G. Mumford, which was unfavorable, in consequence of the power in the treasury department to settle it.

Messrs. Clopton, Nicholas and Harrison, severally advocated the claim. At length Mr. Otis moved to postpone the further consideration of it till the 2d of March. This was negatived, 49 to 34. Mr. Clopton moved to postpone it for one week, in order to give

some additional information on it by papers not now in his possession. This was carried.

A bill for the relief of Joseph Wheaton, sergeant at arms, was taken up. The committee of the whole and the house respectively agreed to grant him 360 dollars, as pay due to him during his illness at the last session of Congress; 360 dollars was allowed, and the bill ordered to be engrossed.

A bill yesterday received from Senate to amend an act for giving effect to the laws within the district of Tennessee, was read and committed to the whole house.

A bill from Senate to amend an act respecting lands in the state of Tennessee, was read and referred to the committee on that subject, appointed January 30th.

A bill from Senate vesting the President with power to make retaliation in certain cases, was read. It relates to a late decree of the French, to treat as pirates persons found on board their enemies' vessels.

Motion was made to commit it to the whole house for to-morrow, on which Mr. Nicholas hoped it would be made the order for Monday next: this he said was in consequence of information he received from a member of Senate, having been told by the secretary of state that the President had received an account from Mr. King, at London, that this arrete was repealed. He wished to gain certain knowledge of this, if such existed, before he was prepared to vote on the bill. He made motion for that purpose, the question was taken for Monday and negatived—51 to 39. It was therefore carried for to-morrow.

Mr. Livingston then moved the following resolutions,—

Resolved, that the President of the United States be requested to lay before this house any information which he may have received touching a suspension of the arrete which he communicated to this house on the 1st inst.

This he said he would lay on the table, in expectation that the bill would not be called for to-morrow.

A bill appropriating a certain sum of money to hold a treaty with the Indians was taken up, and agreed to in committee and in the house, and 25,000 dollars appropriated for that purpose. The bill was ordered to be engrossed. Adjourned.

Thursday, February 14.

An engrossed bill to appropriate a certain sum of money to enable the President to hold a treaty or treaties with the Indians; and a bill for the relief of Joseph Wheaton, were read and passed.

A bill for establishing the compensation of officers employed in collecting the duties on impost and tonnage, and other purposes;

And a bill fixing the pay of captains and commanders of ships and vessels of war of the United States were respectively taken up, and passed in committee of the whole and in the house, and ordered to be engrossed.

A resolution yesterday laid on the table by Mr. Livingston to call for information from the President respecting a repeal of the French arrête was called up.

Mr. Livingston said he had been informed that a member of this house had applied to the office of the Secretary of State, and found some information had been received on the subject, which probably he should state to the house.

Mr. Harper said he had made the enquiry, and found that there had been received from one of our foreign ministers an extract from the *Reda&eur*, a French newspaper which said that the arrête alluded to, was suspended.

The question was taken by yeas and nays. Yeas 52—Nays 38.

Mr. Livingston and Mr. Harper were appointed to wait on the President with the resolution.

A bill to amend an act giving effect to the laws of the United States within the district of Tennessee, was taken up and passed to a third reading.

The house then went into committee on a bill to make appropriation for Marshalls, Clerks, Attorneys, Jurors and witnesses in the courts of the United States; the committee rose without going through the bill and the house adjourned.

[The following excellent Speech of Gen. S. Smith, on the Navy

Bill, in reply to Mr. Gallatin, delivered on the 11th, was accidentally omitted in its proper place.]

Mr. S. Smith meant to have given a silent vote on the passage of this bill, because he thought the subject had heretofore been sufficiently discussed; but the distinction which the gentleman from Pennsylvania has drawn between the agricultural and commercial interests of this country was so invidious, that he felt himself called upon to offer some remarks to the committee.

The gentleman has stated this as a new system, as a new era in our affairs, Mr. S. denied that it was the case. The system had commenced at the last session, 74 gun ships were then mentioned; and authority was given to the President to provide six ships of not less than 52 guns, under which authority it was well understood he might have built 74 gun ships; it was found that 74s could not be built so speedily as to answer the exigencies of the case. Indeed, at the time the department of the navy was instituted, it was understood that it was done with a view of establishing a permanent navy for the United States, as well as with a view of economy in the expenditure of money in that department, the necessity of which had been shewn in the extravagant expenditures which had taken place in the building of the frigates.

Mr. S. did not believe our present navy had produced all the effects ascribed to it; but he believed that it had shewn to France,

that we were determined not to submit to their unjust treatment, and were able to resist.

Mr. S. said, he was not one of those who believed that the amount of the depredations committed upon our commerce by France was any thing like 20 millions of dollars. He did not think they amounted to more than six or seven millions; he grounded his opinion on the following information: The two insurance offices at Baltimore, agreeable to an actual statement from their President, had paid for losses sustained by the French captures, 350,000 dollars. He had estimated the sums not insured, or paid by the other offices, at 150,000 dollars, making one million for the city of Baltimore. The documents on the table shew the commerce of Baltimore to be equal to that of one fifth of the whole union; the losses might therefore be estimated at the same proportion. This would be five millions for the United States. He therefore conceived that seven millions would be a high estimate.

By a letter which he had seen from the President of the N. American insurance company, he found that since the British treaty, the proportion of French depredations to those of British, had been as two to one. He believed this statement to be correct, it corresponded with the losses sustained by Baltimore. In this estimate the seizure of contraband goods was not included.

But it has been said, that our navy has rendered little or no service. In his opinion, the contrary would appear to be true, from a statement of the North American Insurance company, quoted for a different purpose, by which it appears, that our commerce has suffered less within the last six months, from French than from British captures. He believed the fact; which shews that our armed vessels have effectually protected our commerce against French cruisers.

The gentleman from Pennsylvania, in Mr. Smith's opinion, has taken the subject on its true ground, when he considered it as connected with the general interests of the United States. Considering the subject in that point of view, he had classed his arguments under three heads, viz. as a defence against invasion, as a protection of our commerce, and as an instrument of power; and his endeavor to prove that it will answer neither of the two first purposes, that it will merely become an instrument of power, and therefore he is opposed to it.

Mr. S. did not believe that any gentleman contemplated an invasion at present; but is this a reason why it may not hereafter be attempted? The navy of France, it is true, is nearly annihilated.—We have seen it similarly situated in the days of monarchy, and raised again in the course of one war, so as to meet the British with equal force: and he supposed they would not do less under a republican than under a monarchical government. He did not think, therefore, that we ought never to apprehend an attempt of this kind. He was not, however, afraid of an invasion; nor do the A-

merican people fear it. It was for the general good of the nation that he wished a fleet. When the people of the United States associated and formed one national government, it was for their mutual good. When, he asked, was protection refused to that part of the country from which the gentleman himself comes? Did any member now in favor of the navy, oppose protection to the western country when it was wanted? They did not, and they have a right to expect in their turn, protection to their commerce, on which the welfare of all depends. Can it be expected, that the quarter of the union which depends as much on shipping for support, as G. Britain does upon her manufactures, will be contented without this protection? And would the gentleman from Pennsylvania be willing to give up the advantages of our carrying trade, for the paltry consideration of a few millions of dollars? He hoped and believed that equal protection would be given to all our citizens, who are equally entitled to it.

But the gentleman asks, what will six 74s do? He should recollect that we contemplate twelve 74s, and with these we shall be able to do much. When the nations of Europe are at war, we can throw our force into the scale against that nation which shall dare to insult our commerce; or it is probable that the idea that we may do so, without our doing it, will preserve us from insult. Let it be considered that the European powers are compelled to pass by our doors when returning from their West-India possessions; and if they attempt to trample upon our trade, we can send these vessels out, and seize upon their commerce, without contending with their naval force.

Gentlemen opposed to the navy have said, Great Britain will prevent France from coming against us; but shall we depend upon, and throw ourselves into the arms of another power for protection? It had never yet been our custom to do this, and he hoped it never would be.

The gentleman from Pennsylvania has spoken of our extraneous trade; that out of 61 millions of exports, 33 millions were of foreign production, which, according to that gentleman, only benefits the merchants of the United States; but, said Mr. S. this extraneous commerce is the produce of the labor and industry of our citizens, and it certainly must be of advantage to the country, that a commerce of 61 millions has been carried on with a capital of 33 millions.

But the gentleman from Pennsylvania, says that Holland carries on an extensive commerce without a navy, and that Spain, with a navy, has no commerce. Mr. S. did not know where the gentleman got this information, but certainly it is far from being correct. Whilst Holland possessed a navy, she carried on an immense trade; but, as her navy declined, in the same proportion did her commerce decline. At present, Holland is not a great trading nation in her own ships. Spain it is said, has little commerce. She has, on the

contrary, said Mr. S. immense commerce: she has enough to employ the whole of her capital within her own dominion. This commerce is so valuable, that it has always been an object with Great Britain, in time of war, to fall upon the commerce of Spain, in order to pay her hard fought battles with France.

The gentleman has also spoken of the Hanse Towns. They had at one period, a navy superior to all the world: and compelled the king of England to receive their merchants, and give them exclusive privileges, even in London, otherwise they captured their vessels.—Great Britain attempted to crush them, but did not immediately succeed—she increased her navy, succeeded, and the navy of the Hanse Towns fell, and with it their commerce.

But why, said Mr. S. does the gentleman compare this country with Hamburg—a single city—a spot of earth compared with a great nation? Is the trade of Hamburg carried on by their own ships? No, by our ships, and by the ships of all the world. By a reference to the statement on the table it will be seen what a small quantity of the Hanse Towns shipping visit our ports. A great part of their trade is carried on in Danish and Swedish bottoms. When Great Britain attacked the commerce of neutral countries, Denmark and Sweden armed, and obtained a settlement of their differences. Indeed the European nations depredate on us because of our weakness. He trusted, since we had discovered something like a disposition to defend ourselves at sea, we should not act a contrary part.

It had been said we should not be able to man our ships. We were told the same story, said Mr. S. last year; that our sailors would be taken to man our ships of war, and our merchant's ships would not be able to get men. But no scarcity had taken place, until lately, when such a spring had been given to commerce in consequence of the security from our little fleet as he had never before witnessed.

The gentleman has asked how it was that Hamburg carried on its commerce without a fleet. It had been shewn that it was protected by others. They have money, and what they cannot do with men, they do with money. They have paid France twice for their neutrality and probably they will again be called upon.

It is said our fleet will be attended with greater expence than profit; but, said he, there is something like honor. And to make a calculation of this kind, would be to say that all nations might rob us with impunity.

The gentleman from Pennsylvania observes, that our commerce has increased, notwithstanding all the spoliations which have been committed upon it. This, said Mr. S. has been owing to our neutral situation, and the enterprize of our merchants. But notwithstanding, he adds, our produce has fallen in value. For a while, Mr. S. said, it fell; but as soon as our commerce was in some degree protected, it rose again, and tobacco was never so high as at present. Flour has also lately risen, indeed all our produce has risen, in pro-

portion to the protection which our commerce has received. But the gentleman says, the farmer pays more of the expence of the protection of commerce, and receives less of profits, than the merchants. This, Mr. S. said, was making an invidious distinction between them. This gentleman cannot himself think this a well founded remark, or such an one as can have any effect in this house; he means it to have an effect elsewhere. It is impossible, said Mr. S. for a merchant to be benefitted, without the farmer being also benefitted at the same time. What, said he, was our situation in 1789, when this government commenced? Our agriculture was at a low ebb, and our trade oppressed by foreign nations; commerce almost instantaneously sprung up and flourished; and agriculture followed; and we now on every side view the blessings which have every where flowed in their train.

But the gentleman is of opinion that if we had been possessed of twelve ships of the line at the commencement of the present war, we should, ere now, have been parties in it. He was himself of a different opinion. He believed that if we had possessed these vessels, Great Britain would never have issued her orders of the 5th November. She would have known that her vessels to the West-Indies, passed by our doors, and that we could, therefore have retaliated upon her with ease. But knowing we had no naval power, she had acted as we have seen. France followed, and greatly exceeded her example. If we had possessed the fleet now proposed, neither our commerce nor our honor would have suffered in the manner they have done from either nation.

The gentleman from Pennsylvania, says reject this bill, and repeal your army bill, and you save money; but if these are to place the country in a strong posture of defence, he would not surely dispense with them for the sake of a little money. The natural defence of this country, Mr. S. said, is a navy and a well regulated militia; had the militia bill been adopted he should have been opposed to an army; but when he found he could not carry his point in putting the militia upon a better footing than it is at present, he thought an army absolutely necessary, and had voted for it.

But the gentleman says, the people in the country, and in those parts which have been accounted the most federal, complain of the direct tax; they complain before they know whether any part of the tax will fall upon them! He believed very little would fall upon the country, but that it would be paid mostly by the citizens.—The people who are dissatisfied, have yet paid nothing. They are told they will have a great deal to pay, he doubted not they would be satisfied.

The gentleman had expected we might have gone on in a state of peace; so we might if the powers of Europe would have let us alone; but, since they will not, we must have a navy to protect ourselves.

Friday, February 15.

Mr. Livingston from the committee, reported that they had waited on the President, agreeable to the instruction of the House, and that the President had informed them he would cause the necessary enquiries to be made at the office of the Secretary of State for the information requested by the house.

Soon after, a message was received from the President, communicating such information as he had received respecting the suspension of the arrête alluded to : which was a letter from Rufus King, Esq. our minister at London, accompanied with a letter to Mr. King, from Lord Grenville, respecting that subject.

Mr. Livingston moved that the message might be printed. Agreed. The following engrossed bills were severally read and passed.

A bill for the compensation of officers employed in the collection of Imports, &c.

A bill fixing the pay of Captains, &c. of ships, And

A bill giving effect to the laws in the district of Tennessee.

A bill was reported by Mr. Kittera providing for the sale of lands on the Ohio; this bill had been committed after being received from Senate : the report contained one amendment to that bill. Committed to the whole house.

Mr. Champlin made the following motion :

Resolved, that the committee to whom was referred that part of the President's speech which relates to invigorating our system of defence, be instructed to enquire whether any, and if any, what provision ought to be made by law, to defray the expence that has been, or shall be incurred, for the safe keeping of all persons who may have been, or hereafter shall be taken by the public or private armed ships of the United States, and detained as prisoners, in pursuance of the laws thereof, and that they have power to report by bill or otherwise.

He said that no compensation was at present allowed to defray those necessary expences for food and cloathing.

The order of the day being called for on the bill providing for marshals, &c. Mr. Harper moved that the committee should be discharged in consequence of the time it must necessarily take, and the advanced state of the session. He withdrew his motion in consequence of one proposed by Mr. Rutledge to postpone it till Monday : this was negatived, and the house went into committee on that bill. In the course of the discussion, Mr. Otis moved the committee to be discharged : this was negatived ; the committee went through the bill, and having risen and reported the amendments, the house adjourned.

Saturday, February 16.

The Speaker laid before the House a report from the treasury department relative to the officers employed in the collection of imposts and tonnage ; and a letter of the Secretary of the treasury thereupon.

Also a report in consequence of an order of the 18th January that it was necessary to establish a monument on Boon Island. Referred to the committee of commerce to report a bill.

A Bill was received from Senate, to reform the superior courts of the United States in the territory N.W. of the river Ohio. Committed to the whole House.

A resolution was laid on the table by Mr. Abiel Foster, to recommend to the several states, an alteration in the Constitution relating to the choice of a President and vice President.

The Senate notified the House of their agreement to a bill for the relief of Jonathan Haskeld, and a bill for holding a treaty with the Indians.

The President notified his approbation of a bill for settling the balances of certain states due to the United States, and a bill for the relief of Thomas Lewis.

An amendment from the Senate providing relief for sick and destitute seamen, was taken up and agreed to.

The House took up the bill with the amendments reported by the committee of the whole for compensating marshalls &c. and having agreed to the same, it was ordered to be engrossed. Ayes 40. Noes 33.

Mr. Samuel Smith called up the bill for augmenting the salary of certain officers.

The House went into committee thereupon.

The salaries were proposed to be raised so as to continue as follows:

	Dollars,
Secretary of State	5,000
Secretary of the Treasury	5,000
Secretary of War	5,000
Secretary of the Navy	5,000
Attorney General	3,400
Comptroller of the Treasury	4,000
Treasurer	3,400
Auditor of the Treasury	3,400
Commissioner of the revenue	3,400
Register of the Treasury	2,800
Accountant of the War Department	2,300
Accomptant of the Navy department	2,200
Post Master General	2,100
Assistant Post Master General,	1,700

Mr. Gregg moved to strike out the section: he observed that expences could not be so great as they were some time past, and from the present scarcity of money, he could see no reason for the measure.

The chairman declared this was not in order.

Mr. Gallatin moved a repealing clause, to limit the operation of the bill to two years. On a suggestion of Mr. Harper he altered it to three years. The motion was negatived, 46 to 39.

Mr. Eggleston moved to strike out the first 5000 dollars, but that motion was superseded by one of the committee to rise and report the bill.

The question was taken in the house for the bill to be engrossed, and lost. - Ayes 42. Nays 45.

Adjourned.

Monday, February 18.

A bill from Senate, appropriating a certain sum of money for defraying the expence accruing from carrying into effect a treaty of treaties with certain tribes or nations of Indians, was committed to the whole house.

An engrossed bill authorizing the discharge of Robert Surgeon from confinement, and a bill for compensating marshals, attorneys, &c. were read and passed.

Mr. Allen observed, that when the bill was before the house on Saturday, for raising the salaries of certain executive officers, it was the opinion of several gentlemen that some of those officers ought to have some addition made: he would therefore lay on the table the following resolution:

Resolved, That the salaries of the following officers of government ought to be augmented, viz.

The Secretary of State,	dollars.
The Secretary of the Treasury,	dollars.
The Secretary at War,	dollars.
The Secretary of the Navy,	dollars.
The Assistant Postmaster Gen.	dollars.

Mr. D. Foster moved the reference of the resolution to the whole house.

Mr. M'Dowell opposed this as irregular, but he was interrupted by the motion being withdrawn.

House in committee, on the bill providing for the sale of lands on the river Ohio and above the mouth of the Kentucky river.

Several objections appearing relative to the price at which those lands would be sold, on motion of Mr. Craig the committee rose, and leave was not granted to sit again. The bill was then postponed till next session.

House in Committee, on a bill for regulating and fixing the compensation of clerks: an additional officer to be called Solicitor was made to the office of Post Master General, and an additional clerk to the war department was agreed to.

The house agreed to the amendments, and the bill was ordered to be engrossed.

A bill was received from the Senate for appropriating 500 dollars for additional services and expences during the recess to the sergeant at arms of that house: and an act giving eventual authority to the President of the United States to augment the armies, and were committed to the whole house.

The latter bill provides that the President in case a war should break out between the United States and any other nation, or in case of invasion, shall have the power to raise 24 regiments of infantry, with riflemen, artillery and cavalry in proportion; with power to discharge the same whenever he shall think fit, 2,000,000 of dollars to be appropriated therefor, to be obtained upon loan for

fifteen years. On the question for the latter bill to have a second reading, it was carried, 45 to 37.

The house in committee on a bill for encouraging the capture of French armed vessels, by armed ships or vessels owned by a citizen or citizens of the United States, and for allowing salvage in certain cases.

This bill is to allow a premium on every vessel belonging to France in proportion to its guns, that should be captured and brought into port by any private armed vessel, after the condemnation of such vessel; and allowing salvage for recaptures.

Mr. McDowell moved to strike out the first section of the bill, which on the question was carried. Ayes 43—Noes 42.

Considerable conversation then occurred about the propriety of the chairman (Mr. Rutledge) giving his vote, which being contended, the chairman declared that the motion was fairly carried, and that the question could not be recalled.

The committee soon after rose and reported the bill as amended, when the yeas and nays were called for on the question to strike out the section. The debate then turned on the bill, when Mr. Rutledge moved to adjourn. It was negative, 48 to 42. After more debate on the principle of the bill, motion was again made to adjourn, and carried, 49 to 47, so that the question on the section was not taken.

In the course of the observations, Mr. Josiah Parker mentioned as a reason why he should vote for the destruction of the bill, that he had just then been informed by a member of the Senate, that the President had nominated to the Senate a Minister to treat with the French Directory.

Tuesday, February 19.

The Speaker being indisposed, this day, the house adjourned without proceeding to business.

Wednesday, February 20.

Mr. Lyon, from Vermont, took his seat in the house this day.

Mr. Livingston said, he had received under cover, a number of petitions from the State of Vermont, praying for a repeal of the alien and sedition laws, which he begged leave to present to the house. One of which having been read, in which amongst their other objections to the laws, the petitioners complain of having been deprived by the sedition law, of their Representatives in Congress for the greater part of the present session; Mr. L. moved to have the whole referred to the select committee to whom was referred the other petitions relative to this subject; but on Mr. Gallatin's suggesting that he understood that committee is ready to report, and that it would therefore be better to suffer the petitions to lie on the table until that report is made, and then have the whole referred to the same committee of the whole—that course was taken.

The house took up the report of the committee of the whole on the bill for encouraging the capture of French privateers, by allowing a bounty on gass, and the motion being to concur in the agreement of the committee to strike out the first section of the bill, after a long debate, the question was taken by Yeas and Nays. Yeas 52. Nays 48.

The second section was then amended, by adding to it the usual enacting clause; but after some observations against passing it, by Mr. Sewell, since the first section had been struck out, on the motion for its going to a third reading, it was negatived.

Mr. Bayard proposed the following resolution to the house:

"Resolved, That Matthew Lyon, a member of this house, having been convicted of being a notorious and seditious person, and of a depraved mind, and wicked and diabolical disposition, and of wickedly, deceitfully and maliciously contriving to defame the government of the United States, and of having with intent and design to defame the government of the United States, and John Adams, the President of the United States, and to bring the said government and President into contempt and disrepute, and with intent and design to excite against the said government and President the hatred of the good people of the United States, and to stir up sedition in the United States, wickedly, knowingly and maliciously written and published certain scandalous and seditious writings or libels, be therefore expelled this house."

Mr. B. said, he had only to remark, that this resolution is copied from the record of the trial, which he had in his possession.

Mr. Nicholas said, if this had been a candid statement of the business, he should have been willing to have come to an immediate vote upon it; but words are introduced into this resolution which are words of course in every indictment, which do not particularly belong to this offence and the truth of which is never enquired into upon a trial. As he wished the nature of the offence to be clearly stated, he hoped the motion would lie for the present.

Mr. Bayard observed, he had already said, the terms used are copied from the record itself, and he did not think the gentleman from Virginia had been wiser than the law. He had himself no doubt that all the charges in the record are pertinent to the subject; if not it would be extremely improper to introduce them. They are charges upon which a jury of the country have decided.

Mr. Nicholas appealed to the gentleman from Delaware, and to all other gentlemen of the law, who heard him, whether the words here used, are not the mere form of the indictment, and unconnected with the act here charged. He moved to adjourn, which motion was carried without a division.

Thursday, February 21.

Petitions from sundry inhabitants of the state of Massachusetts praying that a post office may be established in the town of Northborough, and from sundry inhabitants of the county of Franklin in

the state of Pennsylvania, praying that a post office may be established in the town of Mercersburgh in the said county, were presented, read and referred to the committee appointed on that subject.

Petitions from sundry inhabitants of the counties of Philadelphia, Chester, Montgomery, Northampton and Washington, in the state of Pennsylvania, praying a repeal of the alien and sedition acts were presented, read and referred to the committee appointed on that subject. Mr. Goodrich from the committee to whom were referred, the petitions, representations, &c. of sundry inhabitants of the states of New-York, New-Jersey, Pennsylvania and Virginia, against the Alien and Sedition acts, made a lengthy report, which was read and ordered to be printed.

Mr. Gallatin from the committee appointed on the 21st ult. reported a bill to amend the act regulating the grants of lands appropriated for military services and for the society of the United Brethren for propagating the gospel among the heathen, which was read and made the order for to-morrow.

On motion, the committee of claims were discharged from the further consideration of the petition of Alexander Powers, and others, and the petitioners have leave to withdraw their petitions.

The house took up the consideration of the two following bills, viz. a bill to grant an additional compensation for the year 1799, to certain officers of the Senate and House of Representatives of the United States, and a bill making appropriations for the support of government for the year 1799, to which they agreed with amendments, and the bills were ordered to be engrossed.

Two bills, the one making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several nations of Indians, and the other making compensation to James Mathers for services rendered the United States, and expenses incurred in rendering said services as sergeant at arms to the Senate, were agreed to by the house, and ordered to be engrossed.

Adjourned.

Friday, February 22.

Mr. Harper, from the committee of ways and means, laid before the house an estimate from the Navy Department which was ordered to be printed.

Mr. Bard presented several petitions and remonstrances from 1487 inhabitants of the county of Franklin, in Pennsylvania, praying for the repeal of the Alien and Sedition laws; which having been read,

Mr. Bard moved to have this petition referred to us. Referred.

Mr. Gallatin presented petitions from 678 inhabitants of Chester county, praying for the repeal of the Alien and Sedition laws, in the same words with those presented yesterday.—Referred.

The following bills were read the third time and passed, viz.

A bill allowing to James Mathers compensation for services as

Sergeant at Arms to the Senate; a bill making appropriations for expenses which may arise in carrying into effect certain treaties with Indian tribes or nations of Indians; and a bill to grant additional compensation for the year 1799, to certain officers of the Senate and House of Representatives of the United States.

On motion of Mr. Harper, the house resolved itself into a committee of the whole on the bill making appropriations for the support of the military establishment for the year 99; and after filling the blanks of the bill, the committee rose, and the house having concurred in the amendments, the bill was ordered to be engrossed for a third reading.

On motion of Mr. Josiah Parker, the house resolved itself into a committee of the whole on the bill for the government of the navy of the United States; and, after going through the same, the committee rose, and the amendments being concurred in, the bill was ordered to be engrossed for a third reading.

Mr. Bayard called up the resolution which he laid upon the table on Wednesday, proposing the expulsion of Mr. Lyon from his seat as a member of this house. After delivering an exemplification of the record to the clerk, which was read, Mr. Bayard spoke at considerable length in support of the resolution. It was opposed by Messrs. Nicholas and Gallatin. Mr. Lyon also said a few words with respect to the manner in which his trial had been conducted, and was replied to by Mr. Allen. At length the question was taken by yeas and nays as follow:

YEAS.

Messrs. Allen, Bartlet, Bayard, Brace, Brooks, Champlin, Chapman, Cochran, Craik, Dana, Dennis, Edmond, Evans, A. Foster, D. Foster, J. Freeman, Glen, Goodrich, Gordon, Griswold, Grove, Harper, Hartley, Hindman, Hosmer, Imlay, Kittera, Lyman, Machir, Matthews, Morris, Otis, I. Parker, J. Parker, Pinckney, Rutledge, Schureman, Sewall, Shepard, Sinnickson, N. Smith, Sprague, Thomas, Thatcher, Thomson, Tillinghast, Van Alen, Waln, J. Williams.

49.

NAYS.

Messrs. Baer, Baldwin, Bard, Brown, Cabell, T. Claiborne, W. Claiborne, Clay, Clopton, Davis, Dawson, Dent, Eggleston, Elmen-dorf, Findley, Fowler, N. Freeman, Gallatin, Gellespie, Gregg, Hanna, Harrison, Havens, Heister, Holmes, Jones, Livingston, Locke, Macon, McCleachian, M'Dowell, New, Nicholas, Skinner, S. Smith, W. Smith, Sprigg, Stanford, Sumter, A. Trigg, J. Trigg, Van Cortlandt, Varnum, Venable, R. Williams.

45.

The Speaker declaring the state of the vote, said, "the constitution requiring two thirds of the members present to expel a member, the resolution is not carried." Adjourned.

Saturday, February 23.

The speaker laid before the house a letter from the secretary of the treasury, stating the damages received by the owners and masters

of the armed ship Niger. Referred to the committee of ways and means.

A bill was reported by Mr. J. Parker, for authorizing the augmentation of the Marine corps.

A bill was reported by Mr. Craik to alter and discontinue certain post roads and establishing others. These bills were referred to the whole house.

An engrossed bill, providing for the military establishment for the year 1799, and an engrossed bill for the support of government for the year 1799 were passed.

A bill for erecting a beacon on Boon Island, in the district of Maine, was taken up, to which the committee of the whole and the house agreed, and it was ordered to be engrossed.

Mr. Varnum called up a resolution which he yesterday laid on the table, importing that the President should call on the executives of the several states to enroll 80,000 of the militia, in their several proportions, to be officered out of the present militia officers.

This is the same as passed last session, but that bill expiring with the close of this session, the question principally was, whether it should be continued. The house went into committee, and the resolution was debated, and agreed to in committee of the whole, and in the house, Ayes, 48, Nays 40.

Messrs. Varnum, M'Dowell and Harper, were appointed to report bill conformably thereto.

An amendment from Senate to the bill on the Direct tax, &c. was taken up. This amendment introduced the very same section which had been struck out of that bill, respecting the allowance to seafarers.

Mr. Gallatin moved an amendment to it in these words, "where the same shall not have been appointed." This was negative.

After some discussion the amendment of the Senate was agreed to. Ayes 57, — Nays 36. Adjourned.

Monday, February 25.

Several petitions for repealing the Alien and Sedition bills, were read. The whole were referred as usual.

On motion of Mr. Livingston, the petition presented some days ago from a number of alien Irishmen against the alien bill, was also referred, 44 to 35.

A message was received from the President, notifying his agreement to several bills.

The two following bills were then read the third time and passed — viz. a bill to authorise the erection of a beacon on Boon Island, and a bill for the government of the navy of the United States.

Mr. Harper from the committee of ways and means, reported a bill making additional appropriations for the year 1799, which was committed.

Mr. Varnum reported a bill authorising a detachment of the militia of the United States, which was committed.

On motion of Mr. Goodrich, the House went into a Committee of the whole, on the report of a select committee on the petitions praying for a repeal of the alien and sedition laws.

The following report was read.—

The Committee to whom were referred the Memorials of sundry inhabitants of the counties of Suffolk and Queen, in the state of New-York; of Essex county in New-Jersey; of the counties of Philadelphia, York, Northampton, Mifflin, Dauphin, Washington, and Cumberland, in Pennsylvania; and of the county of Amelia, in Virginia, complaining of the act, entitled "an act concerning aliens," and other late acts of Congress, submit the following REPORT:—

IT is the professed object of these petitions to solicit a repeal of the two acts passed the last session of Congress, the one "an act concerning aliens," the other "an act in addition to an act for the punishment of certain crimes against the United States," on the ground of their being unconstitutional, oppressive and impolitic.

The committee cannot, however, forbear to notice, that the principal measures hitherto adopted for repelling the aggressions and insults of France, have not escaped animadversion.

Complaints are particularly directed against the laws providing a navy, for augmenting the army, authorising a provisional army, and corps of volunteers, for laying a duty on stamped vellum, parchment and paper, assessing and collecting direct taxes, and authorising loans for the public service.

With these topics of complaint, in some of the petitions, are interwoven invectives against the policy of the government from an early period, and insinuations derogatory to the character of the legislature, and of the administration.

While the committee regret that the public councils should ever be invited to listen to other than expressions of respect, they trust that they have impartially considered the questions referred to their examination, and formed their opinions on a just appreciation of their merits, with a due regard to the authority of government, and the dispassionate judgment of the American people.

The act concerning aliens, and the act in addition to the act intituled an act for the punishment of certain crimes, shall be first considered.

Their constitutionality is impeached. It is contended, that Congress have no power to pass a law for removing aliens.

To this it is answered, that the asylum given by a nation to foreigners, is mere matter of favor, resumable at the public will. On this point, abundant authorities might be adduced, but the common practice of nations attests the principle.

The right of removing aliens, as an incident to the power of war and peace according to the theory of the constitution, belongs to the government of the United States. By the 4th section of the 4th article of the constitution, Congress is required to protect each

safe from invasion, and is vested by the 8th section of the 3rd article, with power to make all laws, which shall be proper to carry into effect all powers vested by the constitution in the government of the United States, or in any department or officer thereof: and to remove from the country in times of hostility, dangerous aliens, who may be employed in preparing the way for invasion, is a measure necessary for the purpose of preventing invasion, and of course, a measure that Congress is empowered to adopt.

The act is said to be unconstitutional, because to remove aliens, is a direct breach of the constitution, which provides " by the 9th section of the 1st article, that the migration or importation of such persons as any of the states shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808."

To this, it is answered, first that this section in the constitution was enacted solely to prevent Congress from prohibiting until after a fit period, the importation of slaves, which appears from two considerations. First, that the restriction is confined to the states which were in existence at the time of establishing the constitution; and secondly, that it is to continue only twenty years, for neither of which modifications could there have been the least reason had the restriction been intended to apply, not to slaves particularly, but to all emigrants in general.

Secondly. It is answered, that to prevent emigration in general, is a very different thing from sending off, after their arrival, such emigrants as might abuse the indulgence, by rendering themselves dangerous to the peace or safety of the country, and that if the constitution, in this particular, should be so construed, it would prevent Congress from driving a body of armed men from the country, who might land with views evidently hostile.

Thirdly. That as the Constitution has given to the states no power, to remove aliens, during the period of the limitation under consideration, in the mean time on the construction assumed, there would be no authority in the country, empowered to send away dangerous aliens, which cannot be admitted; and that on a supposition the aforesaid restrictive clause included every description of emigrants, the different sections must receive such a construction as shall reconcile them with each other; and according to a fair interpretation of the different parts of the Constitution, the section cannot be considered as restrictive on the power of Congress to send away dangerous foreigners in times of threatened or actual hostility. And though the United States at the time of passing this act, were not in a state of declared war, they were in a state of partial hostility, and had the power, by law, to provide, as by this act they have done, for removing dangerous aliens.

This law is said to violate that part of the Constitution which provides that the trial of all crimes, except in cases of impeachment, shall be by jury; whereas this act invests the President with power to send away aliens on his own suspicion, and thus to inflict punishment without trial by jury.

It is answered in the first place, that the Constitution was made for *citizens*, not for *aliens*, who of consequence have no right under it, but remain in the country, and enjoy the benefits of the laws, not as matter of right, but merely as matter of favor and permission, which favor and permission may be withdrawn, whenever the government charged with the general welfare shall judge their further continuance dangerous.

It is answered in the second place, that the provisions in the Constitution relative to presentment and trial of offences by juries, do not apply to the revocation of an asylum given to aliens. Those provisions solely respect crimes, and the alien may be removed without having committed any offence, merely from motives of policy or security. The citizen, being a member of society, has a right to remain in the country, of which he cannot be disfranchised, except for offences first ascertained, on presentment and trial by jury.

It is answered thirdly, that the removal of aliens, though it may be inconvenient to them, cannot be considered as a punishment inflicted for an offence, but as before remarked, merely the removal from motives of general safety, of an indulgence which there is danger of their abusing, and which we are in no manner bound to grant or continue.

The Act in addition to an act intituled an act for the punishment of certain crimes against the United States, commonly called the sedition act, contains provisions of a twofold nature: first, against seditious acts, and second, against libellous and seditious writings.—The first have never been complained of, nor has any objection been made to its validity: the objection applies solely to the second; and on the ground, in the first place, that Congress have no power by the Constitution to pass any act for punishing libels, no such power being expressly given, and all powers not given to Congress, being reserved to the States respectively, or the people thereof.

To this objection it is answered, that a law, to punish false, scandalous and malicious writings against the government with intent to stir up sedition, is a law necessary, for carrying into effect the power vested by the Constitution in the government of the United States, and in the departments and officers thereof, and consequently such a law as Congress may pass: because the direct tendency of such writings is to obstruct the acts of the government by exciting opposition to them, to endanger its existence by rendering it odious and contemptible in the eyes of the people, and to produce seditious combinations against the laws, the power to punish which has never been questioned: because it would be manifestly absurd to suppose that a government might punish sedition, and yet be void of power to prevent it by punishing those acts, which plainly and necessarily lead to it: and because under the general power to make all laws proper and necessary, for carrying into effect the powers vested by the Constitution in the government of the United States, Congress have passed many laws for which no express provision can

be found in the Constitution, and the Constitutionality of which has never been questioned ; such as the first section of the act now under consideration, for punishing seditious combinations ; the act passed during the present session, for punishing persons, who without authority from the government shall carry on any correspondence relative to foreign affairs with any foreign government ; the act for the punishment of certain crimes against the United States, which defines and punishes misprision of treason ; the 10th and 12th sections which declare the punishment of accessories to piracy, and to persons who shall confederate to become pirates themselves or to induce others to become so,—the 15th section, which inflicts a penalty on those who steal or falsify the record of any court of the United States ; the 18th and 21st sections, which provide for the punishment of persons committing perjury in any court of the United States, or attempting to bribe any of their judges : the 22d section, which punishes those who obstruct or resist the process of any court of the United States, and the 23d against rescuing offenders who have been convicted of any capital offence before those courts ; provisions, none of which are expressly authorized, but which have been considered as constitutional because they are necessary and proper for carrying into effect certain powers expressly given to Congress.

It is objected to this act, in the second place, that it is expressly contrary to that part of the Constitution which declares, that " Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the liberty of the press." The act in question is said to be an " abridgment of the liberty of the press," and therefore unconstitutional.

To this it is answered, in the first place, that the liberty of the press consists not in a licence for every man to publish what he pleases, without being liable to punishment if he should abuse this licence to the injury of others, but in permission to publish without previous restraint, whatever he may think proper, being answerable to the public and individuals, for any abuse of this permission to their prejudice ; in like manner as the liberty of speech does not authorize a man to speak malicious slander against his neighbour, nor the liberty of action justify him in going by violence into another man's house, or in assaulting any person whom he may meet in the streets. In the several states the liberty of the press has always been understood in this manner, and no other ; and the constitution of every state, which has been framed and adopted since the declaration of Independence, asserts " the liberty of the press," while in several if not all, their laws provide for the punishment of libellous publications, which would be a manifest absurdity and contradiction, if the liberty of the press meant to publish any and every thing, without being amenable to the laws for the abuse of this licence. According to this just, legal, and universally admitted definition of " the liberty of the press," a law to restrain its licentiousness, in

publishing false, scandalous and malicious libels against the government, cannot be considered as "an abridgement" of its "liberty."

It is answered, in the second place, that the liberty of the press did never extend, according to the laws of any state, or of the United States, or of England, from whence our laws are derived, to the publication of false, scandalous and malicious writings against the government, written or published with intent to do mischief, such publications being unlawful, and punishable in every state, from whence it follows, undeniably, that a law to punish seditious and malicious publications, is not an abridgement of "the liberty of the press," for it would be manifest absurdity to say, that a man's liberty was abridged by punishing him for doing that which he never had a liberty to do.

It is answered thirdly, that the act in question cannot be unconstitutional, because it makes nothing penal that was not penal before, and gives no new powers to the court, but is merely declaratory of the common law, and useful for rendering that law more generally known, and more easily understood. This cannot be denied, and if it be admitted, as it must be, that false, scandalous and malicious libels against the government of the country, published with intent to do mischief, are punishable by the common law; for by the 2d section of the 3d article of the constitution, the judicial power of the United States is expressly extended to all offences arising under the constitution. By the constitution, the government of the United States is established, for many important objects, as the **GOVERNMENT OF THE COUNTRY**; and libels against that government, therefore, are offences arising under the constitution, and consequently are punishable at common law by the courts of the United States. The act, indeed, is so far from having *extended* the law, and the power of the court, that it has abridged both, and has enlarged instead of abridging the "liberty of the press," for at common law, libels against the government might be punished with fine and imprisonment at the discretion of the court, whereas the act limits the fine to two thousand dollars, and the imprisonment to two years; and it also allows the party accused to give the *truth* in evidence for his justification, which by the common law was expressly forbidden.

And lastly, it is answered, that had the constitution intended to prohibit Congress from legislating at all on the subject of the press, which is the construction whereon the objections to this law are founded, it would have used the same expressions as in that part of the clause, which relates to religion, and religious tests; whereas the words are wholly different: "Congress;" says the constitution, (amendment 3d) "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or the press." Here it is manifest that the constitution intended to prohibit Congress from legislating at all on the subject of *religious establishments*, and the prohibition is made in the most express terms. Had the same intention prevailed respecting the press, the same expressions would have been used, and Congress would have been "prohibited from passing any law respecting the press."

They are not, however, "prohibited" from legislating at all on the subject, but merely from *abridging* the liberty of the press. It is evident they may legislate respecting the press, may pass laws for its regulation, and to punish those who pervert it into an engine of mischief, provided those laws do not "abridge" its "liberty," its liberty, according to the well known and universally admitted definition, consists in permission to publish, without previous restraint upon the press, but subjects to punishment afterwards for improper publications. A law, therefore, to impose previous restraint upon the press and one to inflict punishment on wicked and malicious publications, would be a law to abridge the liberty of the press, and as such, unconstitutional.

The foregoing reasoning is submitted as vindicating the validity of the laws in question.

Although the committee believe that each of the measures adopted by Congress during the last session, is susceptible of an analytical justification, on the principles of the constitution, and national policy, yet they prefer to rest their vindication on the true ground of considering them as parts of a general system of defence, adapted to a crisis of extraordinary difficulty and danger.

It cannot be denied that the power to declare war; to raise and support armies; to provide and maintain a navy; to suppress insurrections, and repel invasions, and also the power to defray the necessary expences by loans or taxes, are vested in Congress. Unfortunately for the present generation of mankind, a contest has arisen and rages with unabated ferocity, which has defoliated the fairest portions of Europe, and shaken the fabric of society through the civilized world. From the nature and effects of this contest, as developed in the experience of nations, melancholy inferences must be drawn, that it is unsusceptible of the restraints which have either designated the objects, limited the duration, or mitigated the horrors of national contentions. In the internal history of France, and in the conduct of her forces and partizans in the countries which have fallen under her power, the public councils of our country were required to discern the dangers which threatened the United States, and to guard not only against the usual consequences of war, but also against the effects of an unprecedented combination to establish new principles of social action, on the subversion of religion, morality, law and government. Will it be said, that the raising of a small army, and an eventual provision for drawing into the public service a considerable proportion of the whole force of the country, was in such a crisis unwise, or improvident?

If such should be the assertion, let it be candidly considered, whether some of our fertile and flourishing states did not, six months since, present as alluring objects for the gratification of ambition or cupidity as the inhospitable climate of Egypt. What then appeared to be the comparative difficulties between invading America and subverting the British power in the East-Indies? If this was a professed, not real object of the enterprize, let it be asked, if the Sultan of the Ottoman Empire was not really the friend of France, at

the time when his unsuspecting dependencies were invaded: and whether the United States were not at the same time loaded with insults and assailed with hostility? If however, it be asserted, that the system of France is hostile only to despotic, or monarchical governments, and that our security arises from the form of our Constitution, let Switzerland, first divided and disarmed by perfidious seductions, now agonized by relentless power, illustrate the consequences of similar credulity.

Is it necessary at this time to vindicate the naval armament; rather may not the inquiry be boldly made, whether the guardians of the public weal would not have deserved and received the reproaches of every patriotic American, if a contemptible naval force had longer been permitted to intercept our necessary supplies, destroy our principal source of revenue, and seize at the entrance of our harbours and rivers the products of our industry destined to our foreign markets? If such injuries were at all to be repelled, is not the restriction which confined captures by our ships solely to armed vessels of France a sufficient proof of our moderation?

If therefore naval and military preparations were necessary, a provision of funds to defray the consequent expences was of course indispensable; a review of all the measures that have been adopted since the establishment of the government, will prove that Congress have not been unmindful of the wishes of the American people, to avoid the accumulation of the national debt; and the success which has attended these measures, affords conclusive evidence of the sincerity of their intentions. But to purchase sufficient quantities of military supplies, to establish a navy, and to provide for all the contingencies of an army, without recourse to new taxes and loans, was impracticable; both measures were in fact adopted—in devising a mode of taxation, the convenience and ease of the least wealthy class of people were consulted as much as possible, and although the expences of assessment have furnished a topic of complaint, it is found that the allowances are barely sufficient to ensure the execution of the law, even aided as they are by the disinterested and patriotic exertions of worthy citizens—besides it ought to be remembered that the expences of organizing a new system, should not on any principle, be regarded as a permanent burden on the public.

In authorizing a loan of money, Congress have not been inattentive to prevent a permanent debt; in this particular also, the public opinion and interest have been consulted. On considering the law, as well as the manner in which it was proposed to be carried into execution, the Committee are well satisfied in finding any excess in the immediate charge upon the revenue, is likely to be compensated by the facility of redemption, which is secured to the government.

The Alien and Sedition acts, so called, form a part, and, in the opinion of the committee, an essential part of these precautionary and protective measures, adopted for our security.

France appears to have an organized system of conduct towards foreign nations—to bring them within the sphere, and under the dominion of her influence and control. It has been unremittingly pursued under all the changes of her internal polity. Her means are in wonderful coincidence with her ends:—Among these, and not least successful, is the direction and employment of the active and versatile talents of her citizens abroad, as emissaries and spies. With a numerous body of French citizens and other foreigners, and admonished by the passing scenes in other countries, as well as by aspects in our own, knowing they had the power, and believing it to be their duty, Congress passed the law respecting Aliens, directing the *dangerous and suspected* to be removed, and leaving to the *offensive and peaceable* a safe asylum.

The principles of the sedition law, so called, are among the most ancient principles of our government. They have been ingrafted into statutes, or practised upon as maxims of the common law, according as occasion required. They were often and justly applied in the revolutionary war. Is it not strange, that now they should first be denounced as oppressive, when they have long been recognized in the jurisprudence of these states!

The necessity that dictated these acts in the opinion of the committee still exists.

So eccentric are the movements of the French government, we can form no opinion of their future designs towards our country. They may recede from the tone of menace and insolence, to employ the arts of seduction, before they astonish us with their ultimate designs. Our safety consists in the wisdom of the public councils a co-operation on the part of the people with the government, by supporting the measures provided for repelling aggressions, and an obedience to the social laws.

After a particular and general review of the whole subject referred to their consideration, the committee see no ground for rescinding these acts of the legislature. The complaints preferred by some of the petitioners may be fairly attributed to a diversity of sentiment naturally to be expected, among a people of various habits and education, widely dispersed over an extensive country—the innocent mis-conceptions of the American people will, however, yield to reflection and argument, and from them no danger is to be apprehended.

In such of the petitions, as are conceived in a style of vehement and acrimonious remonstrance, the committee perceive too plain indications of the principles of that exotic system which convulses the civilized world.—With this system, however organized, the public councils cannot safely parley, or temporize, whether it assumes the guise of patriotism to mislead the affections of the people—whether it be employed in forming projects of local and eccentric ambition, or shall appear in the more generous form of open hostility, it ought to be regarded as the bane of public as well as private tranquility and order.

Those to whom the management of public affairs is now confided, cannot be justified in yielding any established principles of law or government to the suggestions of modern theory; their duty requires them to respect the lessons of experience, and transmit to posterity the civil and religious privileges which are the birthright of our country, and which it was the great object of our happy Constitution to secure and perpetuate.

Impressed with these sentiments, the Committee beg leave to report the following resolution.

Resolved, That it is inexpedient to repeal the act passed the last session, intitled "An act concerning aliens."

Resolved, That it is inexpedient to repeal the act passed the last session, intitled "An act in addition to the act intitled "An act for the punishment of certain crimes against the United States."

Resolved, That it is inexpedient to repeal any of the laws respecting the navy, military establishment, or revenue of the United States.

The question being upon agreeing to the first resolution, declaring it to be inexpedient to repeal the alien law.

Mr. GALLATIN rose,

Mr. CHAIRMAN,

This subject was so fully discussed during the last session, that I would not have addressed the committee on this occasion, did I not entertain some hope that the change of circumstances which has taken place since the laws were enacted, and above all the sense which so many of our fellow-citizens have expressed on their propriety and constitutionality, may induce the house to reconsider their decision of last year.

Petitions signed by near 18,000 freemen of this state alone, collected in a few counties and within a few weeks, have been laid on your table, earnestly requesting Congress to repeal laws at best of a doubtful nature and passed under an impression of danger which does now seem to exist, of general alarm which has nearly subsided.

Sixteen hundred of my immediate constituents have joined in these petitions, and their opinion on this subject being the same which I have uniformly entertained, I feel it forcibly to be my duty to examine the reasoning used by the select committee who have reported against the repeal of the obnoxious laws.

The act concerning aliens comes first under consideration. Two laws were passed during the last session of Congress on that subject, the one concerning aliens generally, the other respecting alien enemies. No petition has been presented against the last, and it would remain in force even if the first should, agreeably to the request of the petitioners be repealed. The petitioners apply solely to those provisions of the first act which are not included in the last. The provision, therefore, complained of, and which is the subject matter of the reference to the committee, is that which authorises the Pre-

fident to remove out of the territory of the United States "such aliens (being natives, citizens, denizens, or subjects of a nation which is *not* at war with the United States, and which has *not* perpetrated, attempted, or threatened any invasion or predatory incursion against the territory of the United States) as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the government thereof."

This authorization is considered by the petitioners as unconstitutional, 1st. because such power being neither amongst the specific powers granted by the constitution to the general government, nor necessary to carry into effect any of those specific powers, is, both by incontestable deduction, and by the 12th amendment reserved to the individual States, 2d. because even supposing such power to be by implication comprehended amongst those granted to the general government, its exercise is for the present expressly prohibited to that government by the section which provides that the migration or importation of such persons as any of the states shall think proper to admit shall not be prohibited by Congress prior to the year 1808, and 3dly. because aliens are supposed to come under the general description of persons to whom by the Constitution the right of a trial of all crimes by jury is secured.

In answer to the first objection it is not contended that the power of removing such aliens is specifically granted by the Constitution. But it is insisted, 1st. that every nation has a power at will to admit to remove aliens—2d. that this power is necessary and proper in order to carry into effect the specific powers vested in Congress to declare war and to protect each state from invasion.

To admit the first position in its full extent, does not destroy the force of the objection; for that objection rests not on a supposition that the power of removing aliens does not exist in the nation; but on the principle that it is not one of those granted by the nation to the general government; that it is one of those entrusted by the nation to the governments of the individual states respectively. The second position is predicated on a construction of the clause of the constitution and on an application of that construction of the act, which to me appear inadmissible. The expressions used in that clause are "necessary and proper." The idea conveyed by the word "proper," is implied in that of the word "necessary," for whatever is necessary, must be proper. The addition of the word proper, was therefore useless, unless designed more precisely to ascertain the meaning of the word necessary, the better to prevent a construction "that by necessity nothing more was meant than propriety," and to establish beyond contradiction that whatever might by Congress be tho't proper, was not on that account to be judged necessary. Hence the meaning of the word necessary, is confined in that clause to its strict sense, to wit, the power of passing laws without which some of the powers delegated to Congress could not be carried into effect.

In the present case, it cannot be said that a power generally to remove aliens, not belonging to a nation from which a war or invasion is apprehended, is necessary or even proper in order to protect the states against such a war or invasion. Aliens individually may commit acts tending to assist the enemy, and in such case, it would become necessary to punish them. Should a body of armed aliens [the supposed case of the select committee] land with views evidently hostile, to whatever nation they might belong, the act itself would be an invasion, and the necessity of repelling, or if another expression is selected, of removing them, would be self-evident, and immediately flowing from the specific power delegated to Congress, to protect the states against invasion. But it is preposterous to say that the necessity of a general removal of alien friends flows from the apprehension of an invasion. The law concerning aliens, however, does not designate the acts which shall establish the necessity of their removal individually. Although they may not have been concerned in any machinations against government; although the machinations in which they may have been concerned shall not have tended to promote or assist an invasion; and although their machinations might be sufficiently prevented and punished in the common course of law; although, therefore their removal may not be necessary to protect the states against an invasion; yet by the present law they are liable to be removed, if they shall be suspected of being concerned in those machinations. Their having actually and individually committed certain acts, is requisite to constitute that necessity which alone can justify the exercise of the power delegated by this law. And yet that removal, which in order to be constitutional, should rest on its necessity, depends, by the provisions of this law, on the bare suspicion of a necessity. But necessity implies proof, and cannot rest on a suspicion. The law cannot be supported by the constitution, unless that instrument had declared, that Congress shall have power to pass laws which they may suspect to be proper or necessary, in order to carry into effect certain specific powers delegated to them.

But the law does not even confine its operation to cases when a war or invasion should be apprehended. Supposing the alarms on that subject to be completely at an end, still the power remains with the President to remove aliens suspected by him to be concerned in secret machinations against government. The power delegated by this law is not applicable exclusively to cases where it may be tho't necessary in order to carry into effect the power to protect states against an invasion. It is to apply generally and under color of its necessity for executing certain specific powers, it may be exercised in a case where that specific power on which alone it rests, has itself nothing on which to operate. Although it may happen that there shall be no necessity to protect states against invasion, it will even then, according to this constructive doctrine, still be lawful to do an act which cannot be constitutional, except on account of its being necessary to protect states against invasion.

In order therefore to support the constitutionality of the law, the select committee must suppose, in the first place, that Congress may pass laws, without a certainty of their being necessary for carrying into execution some of the specific powers granted to them, that is to say, that Congress have a right to pass laws which may be unnecessary for that purpose. In the next place, that if a certain law is necessary only for executing a constitutional measure of a temporary nature, that law may constitutionally be executed, altho' the temporary measure itself should not be executed at all; that is to say, that the incidental power may be exercised for a purpose different from that of executing the original on which it rests.

The application of that constructive doctrine to the sedition and alien laws justifies a conclusion, that if adopted it will substitute in that clause of the constitution a supposed usefulness or propriety to the necessity expressed and contemplated by the instrument, and will in fact destroy every limitation of the powers of Congress. It will follow, that instead of being bound by any positive rule laid down by their charter, the discretion of Congress, a discretion to be governed by suspicions, alarms, popular clamor, private ambition, and by the views of fluctuating factions will justify any measure they may please to adopt; that instead of being bound by the constitution, they claim the omnipotence of a British Parliament, that all the reserved powers of the people or of the states will be swallowed up at their pleasure by that undefined discretion, in a word, that the constitution itself, so far as it respects a limitation of powers, is by that doctrine completely annihilated. Even the positive checks which, in a few instances, prohibit the exercise of certain powers, will not prove a sufficient guard against an inordinate appetite to legislate on some favorite subject.

Thus, in the case of the sedition law, the prohibitory clause respecting an abridgment of the liberty of the press is attempted to be explained away by star-chamber definitions, by exotic doctrines, which if suffered to flourish, will overshadow and smother every plant of American growth—doctrines incompatible with the principles of a government elective in all its executive and legislative branches, of a government which the people, the sole fountain of power, cannot properly carry into execution, if the sources of information are shut up from them: if a free and full discussion of every public measure, is, at the will of those who enjoy only a delegated authority, checked and embarrassed by prosecutions for libels, grounded solely on the British system of hereditary prerogative.

And thus, in the case of the alien law, it is said, that the temporary prohibition enjoined on Congress, to forbid the importation or migration of persons, must be understood as applying only to slaves; and that a power to remove emigrants may be constitutionally exercised, though that of prohibiting their migration should be unconstitutional.

The evidence of members of the convention, which framed the

constitution, has sometimes been offered to prove that that body by persons, meant slaves. But the evidence of those members cannot prove any thing beyond their own individual intention, or at most their belief of what might have been the intention of some other members. Nor is, on any possible supposition, the intention of the convention itself of any importance to decide the true meaning of the constitution. For they were not the legislators who passed and ratified the act, but only the framers who drew the instrument, and offered it for consideration. As well might the Judges of the supreme court be induced in their decision on a point of law, to abandon the clear construction pointed out by the precise meaning of the words of the statute on account of the supposed opinion of some members of the committee of this house that had drafted the law, as we be guided by what was at the time the meaning of some of the gentlemen who drew the constitution. After a lapse of ten years it is preposterous to receive parole evidence against a sacred record. Are the people of America to be told, after a lapse of ten years, that the delegation of powers, which they sanctioned, under the impression of what on its face appeared to be its meaning, is to receive a contrary construction bottomed on the private meaning, on the unknown opinion of the members of a body whose deliberations were secret? And if, even through mistake, those individuals adopted expressions which conveyed a different meaning from what they intended, is that supposed intention to prevail over the explicit sense of those expressions?

But we are told by the select committee, that "there could not hot have been the least reason" for confining the restriction to the then existing states, and to a period of twenty years, had the restriction "been intended" to apply to all emigrants in general.— Here again, a supposed intention is brought as an argument against the general acceptance of the word "persons." The question is not whether we are at a loss to find the reasons which dictated a modification of the restriction. Yet if we were to recur to suppositions, we might as well suppose that the then existing states which alone formed the constitutions, felt interested only for themselves, and not for non-existing states; and that those states who were interested in promoting the migration of free persons, were satisfied with the same regulation which satisfied those states who were apprehensive of an interference in the importation of slaves. But the only question is whether that modification is contradictory with the common acceptance of the word "persons," which it will not be denied, in its natural sense will apply to free as well as to the other description of individuals? Whether there is any thing absurd and repugnant to common sense in saying that Congress shall not for twenty years prohibit the migration of free persons in the existing states? If there be nothing inconsistent in that provision, the modification of the restriction cannot modify and alter the meaning of the word "persons."

Was there any possibility of doubt on the sense of that word, it might be explained by other parts of the constitution, and by other expressions in the clause itself.

The second section of the first article of the constitution, speaking of the mode of ascertaining the respective numbers of the several states, declares that they shall be determined by adding to "the whole number of free persons" (including those bound to service for a term of years, and excluding Indians not taxed) "three fifths of all other persons." A sentence in which the word persons is expressly applied first to freemen, and secondly to slaves.

The prohibitory clause itself declares that the migration or importation of such persons as any of the states, &c. shall not be prohibited. The word "migration," as contradistinguished from "importation," clearly implies the free will of the person, and applies exclusively to free persons.

The Select Committee have also informed us that the power to send off emigrants, who abuse the indulgence granted them to remain, is a very different thing from the power of preventing emigration: meaning, I suppose, that although Congress might be forbidden by the constitution to prohibit migration, they may constitutionally send off such emigrants. Was the power claimed by this law, that of punishing, by transportation, aliens convicted of certain offences defined by the law; although the constitutional necessity of that mode of punishment would still remain to be proved; yet the argument of the Committee would deserve some consideration. But it is denied that there is the least difference between a power of prohibiting emigration, and that of sending off any alien at the will of the President, merely because he is suspected by that magistrate. The transportation of the emigrant does not rest on any act committed by him, but on the degree of suspicion entertained by the President. The removal, therefore, contemplated by the law, is not the special removal of certain emigrants, but a general power to remove all the emigrants on suspicion, if the President shall please. I must confess that, to my understanding, that power to remove all emigrants, would, if exercised, (and the law authorises its general exercise) amount precisely to the same thing with a general prohibition of emigration.

So far it is true that the clause of the constitution admits of a construction which would defeat its object, that at the end of it, we find a provision permitting Congress to lay a duty of ten dollars, not on migration, but on the importation of persons. Had it not been for that provision, Congress could not even have checked that importation by any duty. As the clause now stands, they cannot check the migration by any duty whatever, nor the importation by a duty higher than ten dollars. And yet it is contended that notwithstanding so much caution, Congress may by a general power of sending off emigrants, evade the restriction laid upon them, and altogether prevent the effect of migration.

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Finally, if there be any difference between the power of prohibiting migration and that of sending off emigrants, it consists in this, that it might have been apprehended that, under color of the general power over commerce given to Congress, they might by duties or other commercial regulations have prevented or checked migration; but that there does not exist any power granted to the general government by the constitution which can rationally serve as a pretence to claim an authority to remove emigrants generally.—And the only deduction to be thence inferred, is that the clause now under consideration, although it might be proper for preventing the exercise of the first power, was unnecessary for the last purpose.—A conclusion to which I agree in its full extent, and which it seems to me I have already fully established in the first part of my argument.

The select committee driven perhaps thereto by the weakness of the ground they were compelled to defend, have recurred to a last argument, the most extraordinary perhaps of any they have advanced. Having said in the former part of their report, that every nation had a right to send off aliens at will, they afterwards assert, that "as the constitution has given to the states no power to remove aliens," it is necessary to conclude that the power devolves to the general government.

It is I believe, the first time it has been suggested, that the powers of the individual states were derived from the constitution of the United States. That constitution has heretofore been considered as a delegation of powers to the general government, and not to the several states. But the assertion of the committee may be shortly answered, by reading the 12th amendment to the constitution. "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." In order to prove that powers are not reserved to the states, it is necessary to prove that they are delegated to Congress; and the Committee with that kind of logic which pervades the whole of their report, in order to prove that powers are delegated to Congress, assume the position that they do not belong to the states. The constitution declares, that the powers not prohibited to the states, are reserved to them; and the Committee asserts, that the powers not given to the states, are not reserved to them. It would seem, as the Committee had been desirous of justifying, by their own argument, what I have advanced, that the doctrine necessary to support the constitutionality of this law, would infallibly swallow up all the powers of the several states.

That the states had a right to legislate on this subject never was denied. It is a fact that some of them have legislated upon it. Virginia has passed an alien law, which has been quoted by the supporters of the law of Congress. It was strange enough, that on a constitutional question, whether the United States, or the several states had a right to pass such laws, the advocates for the right of

Congress should quote a law of one of the states, which proved the very reverse of their doctrine. But their object was to puzzle and confound, and not to enlighten the understanding: and if they meant to rescue the law of Congress from the charge of impropriety and injustice, by the instance of that of Virginia, they have been guilty of a gross misrepresentation: for the act of that state, so far from being similar to that complained of, is not a law concerning alien friends, but a law respecting alien enemies, perfectly similar to that of Congress of which no one complains, and which passed without opposition.

To the argument against the law, drawn from that part of the constitution, which secures the trial of all crimes by jury, the most satisfactory answer given by the Committee is, that aliens not being parties to the constitution, have no rights under it. Without entering into an examination of the constitutional question arising on that point I will only remark, that the construction is harsh; and that to transport emigrants, "merely from motives of policy," and "without their having committed any offences," is often unjust—always oppressive and cruel. The manner in which aliens have been invited to this country, and the peculiar situation in which they stand, justify the assertion.

The constitution gives to Congress no power over aliens, except that of naturalization. The power therefore, remains with the states to give to aliens the right of denizens. That power has not been exercised by that name: but it has in fact, been carried into effect. Not only in some states have aliens, been enabled to purchase, to hold, to inherit and to leave by will, real estates, a right which principally constitutes a denizen, but many have actually been admitted in some states, either by special acts of the legislature or in conformity to former general laws, to all the rights of citizens of those states, so far as it was in the power of individual states to do it; that is to say that they have received every right, but such as arise from naturalization, every right of denizens. On the other hand, the laws of the Union have invited emigration, by holding out the prospect of being naturalized at the end of a period, which till nearly the time when the alien law passed, never exceeded five years. Under these laws, emigrants have, by a formal declaration before our courts, given evidence of their intention of becoming citizens and renouncing their former allegiance, a declaration almost tantamount to an actual renunciation. They have abandoned their native countries forever; many of them have acquired lands, and married in America, most of them have here the whole of their property, or their only means of subsistence. Under all these circumstances, it may be doubtful, whether a great proportion of these aliens are not entitled to the rights of denizens; and, if they are not so, by a strict construction of positive laws, at least it can hardly be denied, that the provisions of the law violate, in this respect, the dictates of harmony and justice.

The policy of this measure seems to be, defended by the select committee, on the same ground which is to be a pretence and a justification of every act of domestic oppression, for every encroachment of power, for every new tax, for every extravagant loan, for every prodigality of expenditure, for every increase of navy, for every standing army, which may be raised under the various names of permanent army, additional army, provisional army, eventual army, or well affected volunteers. The alien and sedition acts form, in the opinion of the committee, an essential part of our general system of defence against France. I do not mean to follow them, whilst they use, instead of arguments, the mere cant of the day. They cannot be serious when they tell us of the employment of the active talents of a numerous body of French citizens here as emissaries and spies. And if they are, does that committee mean to impose upon this house, as upon the people of some parts of the Union? Do we not know, that, if there be any danger from France, the act respecting alien enemies is applicable to her citizens? and that the law now complained of respects alien friends, and was originally intended to operate, not against subjects of France, but against Irish emigrants and other subjects of Great Britain? Do we not know that notwithstanding all the clamour of last summer, and notwithstanding the two laws passed on that subject, not a single French citizen has been removed?

Still less can I suppose that the committee were in earnest, when they pretend to believe that the United States offered as easy and al- during a conquest to France as Egypt. They seem to have forgotten that Egypt was governed and defended by mamelukes and inhabited by slaves, that the United States are as yet inhabited and defended by the people themselves. But if the committee thought that the fear of an invasion did justify those laws when passed, will they pretend to say, that the danger, even in their opinion, now exists, and that the same necessity now justifies the continuance of the laws?

It is not only against invasion that those laws are said to be necessary. We are told of a system which convulses the civilized world, and has shaken the fabric of society; of an unprecedented combination to establish new principles of social action, on the subversion of religion, morality, law and government. If these are the dangers which threaten us, and if Congress think themselves vested with all the powers which they may think expedient to repel them, I wish to know to what extent they may not legislate, and by what possible limitation they can be restrained in their assumption of powers. There is not an individual on this floor, there is not a man of common understanding and common information in the nation, who, unless he is under the influence of the illusions of the new anti-republican fanaticism, or blinded by party spirit, does not know that these pretended dangers are, in America, the visionary phantoms of a disordered imagination. And I have taken notice of those sentiments, merely to give an additional proof, that under pretence of preventing imaginary evils an attempt is made to establish the omnipotence of Congress, and substantial despotism on the ruins of our Constitution,

Is that a measure of security and general defence, which puts a numerous body of aliens, of those aliens who are represented as so desperate and dangerous, under the absolute control of one man— which, by holding the rod of terror over their heads, and leaving their fate at his sole disposal, renders them complete slaves of the President, and makes them proper instruments for the execution of every project which ambition may suggest, which faction may dictate? Is that a government of laws which leaves us no security but in the confidence we have in the moderation and patriotism of one man? And do the abettors of those laws forget that even that is precarious? and that the unlimited power which they think safely lodged in one individual, may, in a day, be vested in another man in whom they do not place the same confidence?

Is that a measure of general defence, which has diminished the confidence in government and produced disunion amongst the states and amongst the people?

Yet I am happy to find that even this law has produced so general dissatisfaction. I was the more alarmed on account of this law, because attacking only aliens for whom no immediate concern could be felt, it might the more easily become the vehicle to introduce doctrines and innovations, which would hereafter serve as a precedent to attack the liberties of the citizens themselves. A pretence of general defence may justify oppressive measures against citizens as well as against aliens. Although some nice distinction may now be made in order to discriminate one class from the other, yet it must be remembered that the only security of the citizens against unconstitutional measures consists in a strict adherence to the constitution; that their liberties are only protected by a parchment, by words; and that they may be destroyed, whenever it shall be admitted that the strict and common sense of words may be construed away under the plea of some supposed necessity. Whenever the Constitution shall be understood and exercised as an instrument unlimited where it grants power, nugatory where it limits power.

We may feel alarmed when we see a committee of this house asserting that the powers not given to the states, and it may be added by the same rule of construction, that the powers not given to the people by the Constitution, belong to the general government. We may feel alarmed when that committee insist that, although it is true that the trial of all crimes must be by jury, yet to inflict a punishment when no offence, no crime has been committed, is not a violation of the Constitution; when the only distinction they apply to citizens, consists in the difference of punishment, but not in a difference of the principle. We may feel alarmed, when we find that Congress have already acted on those principles towards citizens; that they have already passed another law, the sedition law, grounded on the same principles, on the same doctrine, or rather on the same abandonment of the explicit and evident sense of the constitution, which alone could justify the Alien law. I hope, I trust, that the spirit that dictated both laws, has subsided, even within these walls, and that the same Congress who, under the impressions of a moment-

tary alarm, which prevented a cool investigation, hastily adopted those two measures, will have courage enough to revise their own conduct, to acknowledge their own errors, and by a repeal of the obnoxious acts, restore general confidence, union and harmony, amongst the States and people.

The resolution was carried. Ayes 52.

The second resolution being under consideration, viz.

Resolved, That it is inexpedient to repeal the act passed the last session, intituled "An act in addition to the act, intituled An act for the punishment of certain crimes against the United States."

Mr NICHOLAS spoke as follows :

Mr. CHAIRMAN,

I am sorry to be obliged to rise at this late hour of the day, indposed also as I find myself, to speak to this important question; but, since gentlemen are determined now to decide upon it, I must be indulged in making some observations upon it, previous to the question being taken.

The select committee had very truly stated, that only the second and third sections of the act, in addition to the act for the punishment of certain crimes against the United States are complained of; that the part of the law which punishes seditious acts is acquiesced in, and that the part that goes to restrain what are called seditious writings, is alone the object of the petitions.

This part of the law is complained of, as being unwarranted by the constitution, and destructive of the first principles of republican government. It is always justifiable, in examining the principle of a law, to enquire what other laws can be passed with equal reason, and to impute to it all the mischiefs for which it may be used as a precedent—In this case, little enquiry is left for us to make, the arguments in favor of the law carrying us immediately, and by inevitable consequence to absolute power over the press. The case chosen for our first legislation, that of "false, scandalous and malicious writings," is specious, and as likely as any can be to establish an interest in its favor; but when it is fairly examined, it will be found to operate on cases, which could not, at first view, be expected to come under it; to be the instrument of most unjust oppression, and to restrain that free communication of honest opinion which is the soul of our government. But when you come to enquire further and learn from the advocates of the law, the authority which they claim for passing it, you will find that the power claimed, does not stop even with this law, mischievous as it may be, but that it extends to absolute and unlimited control.

It is not pretended that the constitution has given any express authority for passing this law, and it is claimed only as implied in that clause of the constitution which says "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof"—It is, therefore, necessary to fix a just construction of this clause.

That the powers of the Federal Government were intended to be limited, is universally admitted, in the abstract; is proved by every clause of the constitution, and is positively declared by the 12th amendment in these words, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The just construction of the constitution, if the clause respecting necessary and proper powers had been omitted, would have been the same that it ought to be with the addition; for there can be no doubt that a grant of specified powers would have contained a grant of such power as is necessary to carry the specified power into effect, and therefore the declaration ought to make no difference, according to a well known maxim. This was the understanding of all the friends of the constitution at its adoption, and the constitution ought now to be construed as if the clause had been omitted. But it is proper to examine the meaning of it as expressed.

It is clear, that this clause was intended to be merely an auxiliary to the powers specially enumerated in the constitution: and it must therefore be so construed as to aid them, and at the same time to leave the boundaries between the general government and the state governments untouched. The argument by which the select committee have endeavored to establish the authority of Congress over the pres., is the following:—"Congress have power to punish seditious combinations, to resist the laws; and therefore Congress must have the power to punish false, scandalous and malicious writings; because such writings render the administration odious and contemptible among the people, and by doing so, have a tendency to produce opposition to the laws."

It is expressly admitted by the committee, that the power to punish seditious combinations to resist the laws, is only derived, by construction, from the clause giving all necessary and proper powers before recited; and that there is no express power in the constitution to that effect. There is no dispute about this construction being just—but I contend that the inference from this implied power cannot be supported, viz, "That Congress have a power to punish seditious writings."

The constitution says, "Congress shall have power over all acts which hinder, the execution, &c. but to make it support the construction of the committee, it should say that Congress shall have power over all acts which are likely to produce acts which hinder the execution, &c." Our construction confines the power of Congress to such acts as immediately interfere with the execution of the enumerated powers of Congress; because the powers can only be necessary as well as proper, when the acts really would hinder the execution. The construction of the committee extends the power of Congress to all which have a relation, ever so many degrees removed, to the enumerated powers, or rather to the acts which would hinder their execution. By our construction, the constitution remains defined and limited, according to the plain intent and meaning of the Constitution.

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ing of the framers: by the construction of the committee, all limitation is lost, and it may be extended over the different actions of life as speculative politicians may think fit. The suggestion on which the authority over the press is founded, is that seditious writings have a tendency to produce opposition to government. What has a greater tendency to fit men for insurrection and resistance to government, than dissolute, immoral habits, at once destroying love of order, and dissipating the fortune which gives an interest in society? The doctrine that Congress can punish any act which has a tendency to hinder the execution of the law, as well as acts which do hinder it, will, therefore, clearly entitle them to assume a general guardianship over the morals of the people of the United States.

Again, nothing can have a greater tendency to insure obedience to law, and nothing can be more likely to check every propensity to resistance to government, than a virtuous and wise education; therefore, Congress must have power to subject all the youth of the United States to a certain system of education. It would be very easy to connect every sort of authority used by any government, with the well-being of the general government, and with as much reason as the committee had for their opinion to assign the power to Congress, although the consequence must be the prostration of the state governments.

But enough has been said to shew the necessity of adhering to the common meaning of the word necessary, in the clause under consideration, which is, that the power to be assumed must be one without which some one of the enumerated powers cannot exist or be maintained. It cannot escape notice, however, that the doctrine contended for, that administration must be protected against writings which are likely to bring it into contempt, as tending to opposition, will apply with more force to truth than falsehood. It cannot be denied that the discovery of mal-administration will bring more lasting discredit on the government of a country, than the same charges would if untrue.

This is not an alarm founded merely on construction, for the governments which have exercised control over the press, have carried into the whole length. This is notoriously the law of England, from whence this system has been drawn; for there truth and falsehood are alike subject to punishment, if the publication bring contempt on the officers of government.

I have shewn, as I promised, that the authority on which this act is supported, gives unlimited power over the press, as to its investigation of public affairs, which is its most important function; and I will now endeavor to shew, that the effect of the present law is very little short of the complete restraint of all useful discussion on public men and measures.

The law has been current by the fair pretence of punishing nothing but falsehood, and by holding out to the accused the liberty of proving the truth of the writing; but it was from the first apprehended, and it seems now to have been adjudged (the doctrine has

certainly been asserted on this floor) that matters of opinion, arising on notorious facts come under the law. If this is the case, where is the advantage of the law requiring that the writing should be false, before a man shall be liable to punishment, or of his having the liberty of proving the truth of his writing. Of the truth of facts there is an almost certain test—the belief of honest men is certain enough to entitle it to great confidence; but their opinions have no certainty at all—the trial of the truth of opinions, in the best state of society, would be altogether precarious; and perhaps a jury of twelve men could never be found to agree in any one opinion. At the present moment, when, unfortunately, opinion is almost entirely governed by prejudice and passion, it may be more decided, but nobody will say it is more respectable: chance must determine whether political opinions are true or false, and it will not unfrequently happen, that a man will be punished for publishing opinions which are sincerely his, which are of a nature to be extremely interesting to the public, merely because accident, or design, has collected a jury of different sentiments.

If the effect of the present law is to restrain the free communication of opinion, and its principle will justify any control government chuses to exercise over the press, an inquiry may safely be entered on, whether Congress ought to possess the power—even if the clause giving necessary and proper power would extend to such remote cases, the authority cannot be claimed if it will do more harm than good—it is the more necessary to enquire into the usefulness of this power in the hands of Congress; since the opinion is becoming current, that, that alone will give Congress a right to assume it, upon the principle that government must have a right to do every thing proper for its safety. This doctrine may be very fallacious, if not taken in the restricted sense to be found in the clause giving necessary powers. No government can assume a power not delegated, on pretence of its being necessary; for none have a right to judge of what is necessary but the makers of the constitution, otherwise all governments would be competent to make every alteration in a constitution they might think proper, and the constitution would rank with the laws, and not above them.—For the execution of powers expressly given, there must have been some latitude allowed to those who were to execute them, the same in fact which is expressed in the clause respecting necessary powers.

Is the power claimed proper for Congress to possess? It is believed not, and will readily be admitted if it can be proved, as I think it can, that the persons who administer the government have an interest in the power to be confided, opposed to that of the community. It must be agreed, that the nature of our government makes a diffusion of knowledge of public affairs necessary and proper, and that the people have no mode of obtaining it but through the prints. The necessity for having this information results from its being their duty to elect all the parts of government, and in this way, to sit in judgment over the conduct of those who have been

heretofore employed. The most important and necessary information for the people to receive is, of the misconduct of the government, because the good deeds, although they will produce affection and gratitude to public officers, will only confirm the existing confidence, and will therefore make no change in the conduct of the people. The question, then, whether the government ought to have controul over persons who alone can give information throughout a country, is nothing more than this, whether men interested in suppressing information necessary for the people to have, ought to be intrusted with the power, or whether they ought to have a power which their personal interest leads to the abuse of? I am sure no candid man will hesitate about the answer; and it may also safely be left with ingenuous men to say, whether the misconduct which we sometimes see in the press, had not better be borne with, than to run the risque of confiding the power of correction to men who will be constantly urged by their own feelings to destroy its usefulness.

The mode of thinking which countenances this law, and the doctrines on which it is built, are derived from a country whose government is so different, from our's, that the situation of public officers ought to be very different. In Great Britain the King is hereditary, and according to the theory of their government, can do no wrong. Public officers are his representatives, and derive some portion of his inviolability from the theory, but more from the practice of the government, which has, for the most part, been very arbitrary. It was, therefore, of course, that they should receive a different sort of respect from that which is proper in our government where the officers of government are the servants of the people, are amenable to them, and liable to be turned out of office at periodical elections. In Great Britain, writings are seditious tho' they are true, if they tend to bring a public officer into contempt.

In this country, it is seen the same principle is contended for, and that in practice, with respect to matters of opinion, we have gone the whole length of the principle. How long can we expect to maintain the other distinctive qualities of the magistracy of the two countries, when the sameness is established? How long can it be desirable to have periodical elections, for the purpose of judging of the conduct of our rulers, when the channels of information may be choaked at their will?

But, Sir, I have ever believed this question as settled by an amendment to the constitution, proposed with others, for declaring and restricting its powers, as the preamble declares, at the request of several of the states, made at the adoption of the constitution, in order to prevent their misconstruction and abuse.—This amendment is in the following words, “ Congress shall make no law respecting “ an establishment of religion, or prohibiting the free exercise “ thereof; or abridging the freedom of speech or of the press, or “ the right of the people peaceably to assemble and petition the “ government for a redress of grievances.” There can be no

doubt about the effect of this amendment, unless the "freedom of the press," means something very different from what it seems; or unless there was some actual restraint upon it, under the constitution of the United States, at the time of the adoption of this amendment, commensurate with that imposed by this law.—Both are asserted, viz., that the "freedom of the press," has a defined, limited meaning, and that the restraints of the common law were in force under the United States, and are greater than those of the act of Congress; and that therefore, either way the "freedom of the press," is not abridged.

It is asserted by the select committee, and by every body who has gone before them in this discussion, that the freedom of the press, according to the universally received acceptance of the expression, means only an exemption from all previous restraints on publication, but not, to an exemption from any punishment government pleases to inflict for what is published.—This definition does not at all distinguish between publications, of different sorts, but leaves all to the regulation of the law, only forbidding government to interfere, until the publication is really made.—The definition, if true, so reduces the effect of the amendment, that the power of Congress is left unlimited over the productions of the press, and they are merely deprived of one mode of restraint.

The amendment was certainly intended to produce some limitation to legislative discretion, and it must be construed so as to produce such an effect, if it is possible.—This is required in the construction of all solemn acts; but must be more particularly due to this, on account of the various examinations it underwent, previous to its adoption.—It was first recommended by the conventions of several states, was adopted by two-thirds of both Houses of Congress, and finally ratified by three-fourths of the state legislatures, to give it such a construction as will bring it to a mere nullity—would violate the strongest injunctions of common sense and decorum; and yet that appears to me to be the effect of the construction adopted by the committee.—If subsequent punishments are sufficient to deter printers from publishing any thing which is prohibited, there is no stint to the power of Congress; and yet, it appears to me, that a limitation was clearly intended. I cannot doubt the power of government to bend printers to their will by subsequent punishments, when all other offences are restrained only in this way.—Government does not punish men for keeping instruments with which they can commit murder; but contents itself with punishing murder when committed. The effect of the amendment, says the committee, is to prevent government taking the press from its owner; but how is their power lessened by this, when they may take the printer from his press and imprison him for any length of time, for publishing what they chuse to prohibit, although it may be ever so proper for public information. The result is, that government may forbid any species of writing, true as well as false, to

be published; may inflict the heaviest punishments they can devise for disobedience, and yet we are very gravely assured this is "the freedom of the press."

But it is worth while to trace this definition to the place from whence it is taken, and enquire into the circumstances in which it is used. Blackstone, in his *Commentaries on the laws of England*, after stating the law respecting libels, which is, that every thing which brings a magistrate into contempt, is punishable, whether true or false, goes on to say, that this law is not inconsistent with the liberty of the press; and then gives a definition of the liberty of the press in the manner it is used by the committee.—The meaning of all Blackstone has said, is this, that the press has the proper degree of liberty in England, and that libels whether true or false, ought to be punished there.—Let us apply what is called his definition, in the way he used it, to the legislation of the United States. Suppose the present question was, whether we should punish truth, as well as falsehood, in libels, would gentlemen venture to tell us that it was consistent with the freedom of the press, or that the degree of freedom proper for the United States, would remain? I will venture to say, they would not.—Ought they, then, to support the doctrine which hereafter may be practised on to the full extent? Is there not reason to believe gentlemen hope to conceal the full extent of their principles, by bringing them into operation only by degrees? But, sir, it is a manifest abuse of Blackstone's authority, to apply it as it has been here applied.—He had advanced in the fourth volume of a panegyric on the laws of England, and after stating the law on this subject, makes a theory to justify the actual state of the law. It must be remarked, in his justification, that the nature of their government justifies more rigor than is consistent with ours, and that the existing law, of which he was writing the praise, had been greatly softened in practice, by public opinion. In this case, there was no danger of impairing the security to liberty, intended by the constitution; for England has no constitution, but what may be altered by the parliament, and therefore no great precision was necessary with respect to general principles. Indeed his observations on this subject ought to be called a theory, and a theory adapted merely to his own country, and not a definition.—Very different are the circumstances in which his doctrine has been applied here. A restrictive clause of the constitution of the United States, by its application, is made to mean nothing, and when it is clearly the intention of the constitution to put, at least, some acts of the press out of control of Congress, by the authority of this writer, all are subjected to their power.

But it is said, that the states have all adopted the same construction which is given to freedom of the press by the committee, for that all the state constitutions provide for it, and yet the law of libels remains part of their codes. If this is fact, about which however I am uninformed, it is easily to be accounted for. At the se-

volution, the state laws, were either the law of England, or were built on it, and of course, they would contain the monarchical doctrine respecting libels. When the state constitutions were formed, the old law was continued in force indiscriminately, and only a general exception made of what should be found inconsistent with the state constitutions. Now to prove that the states have considered the law of libels consistent with the freedom of the press, gentlemen should shew that this law has been practised on since the revolution, and that the attention of states had been called to it by its execution, and that still it remains in force. I believe this cannot be done. So far as I know, it has been a dead letter. I mean the law of libels against magistrates; and if so, the argument is reversed, and is wholly on my side. The terms of this law furnish one of the best proofs of the truth of my opinion; for the framers of it, wound up as they have been, in their notions about government, since the adoption of the state governments, endeavored to take a middle course between real liberty and the state law, which is supposed to continue in force, and have studiously endeavored to conceal, that their doctrine leads to the same thing by constantly pretending that their law is to punish only falsehood.—This is a plain admission, that even now public opinion would not support what they pretend is the law of each state. But from the argument before urged, I think it must be admitted that if the states had so understood it, the construction could not be extended to this amendment. No solemn instrument can be construed so as to destroy it. I have seen somewhere, and I beg leave here to remark on it, the authority of the Convention who formed the Constitution of Virginia, quoted to justify this construction. That Convention is said to have passed a law similar to the law of Congress, after having provided for the liberty of the press in their bill of rights.—Let us examine that law.—The first section is to punish those who shall “by any word, open deed, or act, advisedly and willingly maintain and defend the authority, jurisdiction, or power of the king, or parliament of Great Britain, heretofore claimed over this colony, or shall attribute any such authority, &c.” This section, passed at the beginning of the most awful contest in which ever man engaged, a contest for the right of self government, against one of the most powerful nations in the world, was to establish, what? Not the inviolability of the governor of the state, nor of the majority of either house of the legislature, but to punish men who should promote resistance to the right of the people to govern themselves, to the principle of the Constitution, to the republican principle.—So different is this from the object of the law of Congress, that it would have been impossible to believe that they should have been compared, if we had not seen it done.—All argument must be thrown away on gentlemen who do not feel the difference between the respect due to the Constitution, to the right of self government in the people, and that which is due to the organs of administration, who cannot

only deserve contempt, but who are to be removed with disgrace, according to the Constitution itself, when they misbehave. "By the second section of this law, those were to be punished, " who should maliciously and advisedly endeavor to excite the people to resist the government of the colony, or persuade them to return to a dependence on the crown of Great Britain, or maliciously and advisedly excite or raise tumults and disorders in the state, or maliciously and advisedly terrify and discourage the people from enlisting in the service of the Commonwealth, or dispose them to favor the enemy." The design of this section is apparently the same with the former. Every act of ill will to the existing government, is immediately followed by one tending to submission to Great Britain. These acts are, however, out of the question, for they belong to the class enumerated in the first section of the sedition law, which nobody wishes to repeal, as the Committee declare. But if the law had any analogy to the law of Congress, it would be improper to quote it; for it is well known that our revolution made a resort to expedients necessary in a variety of instances, which could not be justified by principle, and that for a time, personal rights were compelled to bend before public necessity.

A distinction is very frequently relied on, between the freedom and the licentiousness of the press, which it is proper to examine. This seems to me to refute every other argument which is used on this subject; it amounts to an admission that there are some acts of the press which Congress ought not to have power to restrain, and that by the amendment they are prohibited to restrain these acts.—Now to justify any act of Congress, they ought to show the boundary between what is prohibited and what is permitted: and that the act is not within the prohibited class. The constitution has fixed no such boundary; therefore, they can pretend to no power over the press, without claiming the right of defining what is freedom and what is licentiousness, and that would be to claim a right which would defeat the Constitution; for every Congress would have the same right, and the freedom of the press would fluctuate according to the will of the legislature. This is therefore only a new mode of claiming absolute power over the press.

But it is said the phraseology of the amendment, proves that the framers of it considered the freedom of the press as limited; otherwise they would have used the same words in speaking of the freedom of the press, which they use in speaking of religious establishments. This argument is certainly fanciful; but it shall be considered, as it is my design to leave no argument which I recollect to have seen, unanswered. It is plain, the writer of the amendment intended to indulge his copiousness of expression, or that he had been accustomed to use certain words in a particular connection.—The amendment says, in speaking of religion, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The change of expressions according to the

argument, ought to have some object ; and yet there can be no doubt that, if the word prohibiting was dropped, the provision would be the same. But the argument will lose all force, when the amendment is read to the end, and it seems to have arisen merely from the committee having stopped in the middle of it, and lost sight of the latter part. It lays, "or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the government for a redress of grievances." The argument is, that the word *abridging*, as it is distinguished from respecting, implies, that the freedom of the press was before limited ; but if this is true, it must also be the case with the right of peaceably assembling and petitioning, &c. Is this pretended, and may we hereafter expect to have a definition of the right of petitioning, which will put it also under the controul of Congress ?

I think I have answered every construction of the amendment which can prevent its being completely prohibitory of all legislation by Congress on the subject of the press, unless there was some existing restraint under the Constitution of the United States, at the time of adopting the amendment. To this enquiry I now proceed.

It is said, there is a common law which makes part of the law of the United States, which restrained the press more than the act of Congress has done, and that therefore there is no abridgment of its freedom. What this common law is, I cannot conceive, nor have I seen any body who could explain himself when he was talking of it.

It certainly is not a common law of the United States, acquired as that of England was, by immemorial usage. The standing of the government makes this impossible. It cannot be a code of laws adopted, because they were universally in use in the states for the states had no uniform code ; and if they had, it could hardly become by implication part of the code of a government of limited powers, from which every thing is expressly retained, which is not given. There never was an uniform code of laws at any time among the states. Their settlement took place at several times, and the law of England was adopted up to the respective settlements, in the whole, or by selection. Virginia recognized the common law, properly so called, and the statutes to the 4th James the first ; Maryland the common law and statutes up to the time of her settlement ; and South Carolina, I am told, never acknowledged any of the English statutes to be in force, except what were specially adopted by law. With this dissimilarity at the commencement, there can be no doubt that the decisions of courts, and the statutes which were constantly passing, must have made the codes of the several states altogether unlike at the time of adopting the Federal government. Is it the law of England at any particular period, which is adopted ? It cannot be believed, that this was an universal favorite ; for it had been greatly altered in every state, to adopt it to their situation, and it cannot be believed, that after altering it under the instruction of experience, it was intended to bring it again into force. But the nature of the law of England makes it impossible that it should have

been adopted in the lump into such a government as this ; because it was a compleat system for the management of all the affairs of a country. It regulated estates, punished all crimes, and in short, went to all things for which laws were necessary. It might be more properly considered as the measures of the power left with the states.— But how was this law adopted ? Was it by the constitution ? If so, it is immutable and incapable of amendment. In what part of the constitution is it declared to be adopted ? Was it adopted by the court ? From whence do they derive the authority ? The constitution, in the clause first cited, relies on Congress to pass all laws necessary to enable the courts to carry their powers into execution, it cannot therefore, have been intended to give them a power not necessary to their declared powers. There does not seem to me the smallest pretext for so monstrous an assumption ; on the contrary, while the constitution is silent about it, every fair inference is against it. It was thought necessary to adopt expressly many of the ancient and most valuable principles of the law of England, such as trial by jury, and the writ of habeas corpus ; and wherever the constitution gives cognizance of crimes, which were known in that law, it requires Congress to define them, and direct the punishment, except in the case of treason, which it defines itself.

Perhaps it may be said, that the law of England with respect to libels, was in force in all the states, and that therefore it is to be considered as adopted. When we recollect what that law is, that it punishes truth as well as falsehood, and that the Congress of 1798, did not think proper to enact its provisions in the full extent, it may be fairly denied that it could have accorded with the jealous republican temper of the conventions, who adopted this constitution. If the common law was adopted on this subject, it was adopted entire as it then existed, and must remain forever unchangeable as part of the constitution. The power of juries must be the same as it was then, and no more, and the improvement which was immediately afterwards produced by public opinion, in that respect, in England, will be denied to us, and we may even have to regret the want of some of the provisions of the present odious law ; but there is too little reason for the suggestion of there being a common law in the United States, to need a refutation. If there was an uniformity in the law respecting libels, it is one of the strongest evidences of what was before said, that this whole doctrine of libels was obsolete ; for nobody can doubt, after hearing what it is, that it must have undergone considerable changes, if it had ever been practised on.

The committee seem to suppose, for I confess it is very difficult to comprehend this part of their argument, that the law of libels is adopted by that part of the constitution, which extends the judicial power to cases in law and equity arising under the constitution ; for this is the expression of the part referred to by them, and not "offences arising under the constitution," as they have quoted it. How this can be inferred I cannot conceive. If the expression was "offences," as they assert, still it would mean offences in which Congress was directed by the Constitution to legislate ; but as the ex-

pression really is, the cases are innumerable which come within it. See "The Federalist," vol. II. for an explanation of this part of the constitution: It is there said, "It has been asked, what is meant by cases arising under the constitution, in contradistinction from those arising under the laws of the United States? All the restrictions on the authority of the state legislatures furnish examples of it," &c — For the opinion of the same writer, as to the force of the common law of the United States, see same volume, page 345, and the two following pages, in which he answers the objection to an omission of its provisions, and admits that it is not adopted by the constitution.

Upon the whole, therefore, I am fully satisfied, that no power is given by the constitution to controul the press, and that such laws are expressly prohibited by the amendment. I think it inconsistent with the nature of our government, that its administration should have power to restrain animadversions on public measures; and for protection from private injury by defamation, the states are fully competent. It is to them that our officers must look for protection of person, estates, and every other personal right, and therefore, I see no reason why it is not proper to rely upon it, for defence against private libels.

Mr. N. having set down, a few observations were made in favor of the committee's rising and reporting progress, by Messrs. M'Dowell and Livingston; and against it, and in favor of taking the question on the resolution, by Messrs. Bayard and Dayton, a question was taken on the committee's rising, and negatived, 51 to 42. The question on the resolution was then put and carried by exactly the same number of votes, by which the former question was carried.

The question was put and carried on the last resolution without a decision.

The committee then rose, and the house took up the resolutions. The question being on concurring in the agreement of the committee of the whole to the first resolution. It was decided by yeas and nays. Yeas 52. Nays 47.

Mr. M'Dowell then moved an adjournment which was negatived, 55 to 38.

The question was then taken on the second resolution, upon which the yeas and nays were exactly the same as upon the first.

The question on the third was concurred in, 61 votes being for it. Adjourned.

Tuesday, February 26.

A report from the committee of claims was made by Mr. Foster, on the petition of George Esterlay, with their opinion that the petition ought not to be granted, and that the petitioner have leave to withdraw his petition. The House concurred.

A bill for the regulation of Post-Offices was taken up, and the house went into committee thereon. An amendment was proposed by Mr. Thatcher to alter that grade of postage which is below 30 miles, so as to make it 4 cts. for less than 20 miles and 8 cts. from 20

to 40. He thought this would produce more money to the treasury and be more convenient to the public. It was negatived. The committee rose, and the House having agreed to it, ordered it to be engrossed.

Mr. Rutledge reported respecting subscribing for a number of copies of the Journals &c. to be published, agreeable to a resolution of the 8th of January. They reported a resolution to agree with the resolution of the Senate last session for that purpose.

Committed to the whole House for to-morrow.

A Petition was presented by Mr. Gallatin from George Turner, of the N. Western Territory, praying the pre-emption of some lands. Committed to three members to report by bill or otherwise.

A bill was reported by Mr. Harper for the relief of American Seamen.

A bill from Senate, to alter the time of sitting of the district court in Vermont:

A bill from Senate for the security of bail in certain cases:

And a bill concerning French citizens which have been already or may be captured and brought into the United States:

Were severally taken up, read, and committed to the whole House.

A bill from Senate, concerning the Pennsylvania and Connecticut claims, was postponed till next session.

The House resolved itself in committee on the following several bills; which were ordered a third reading.

A bill authorizing the augmentation of the marine corps.

This bill provides the addition to that corps of 8 lieutenants; 4 sergeants; 170 privates and 18 drummers and fifers.

An act for the relief of sick and disable Seamen.

An act for better organizing the army of the United States, was taken up, but the committee rose without decision. Adjourned.

Wednesday, February 27.

The following engrossed bills were read and passed.

A bill concerning French citizens, who have been, or may be captured and brought into the United States.

An act altering the time for holding the district courts of Vermont.

A bill authorizing the augmentation of the marine corps.

An act to amend an act for the relief of sick and disabled Seamen.

And an act to establish the Post-Offices in the United States.

Mr. Gallatin reported a bill to authorize the sale of lands in the Western Country, and for granting pre-emption to certain persons. Committed to the House.

A report was made by the Secretary of State, on the petition of John Brown Cutting. A motion for printing was negatived, and the report laid on the table.

A bill from Senate, for the augmentation of the salaries of officers therein mentioned.

This bill differs but little from one negatived a few days ago in this House.

The House went into committee, which rose without making any amendment to the bill.

On the question for it to be read a third time, the Yeas and Nays were called for.

Mr. M'Dowell said it was very extraordinary, after a discussion had taken place in the House, and a decision was had against the increase of salary, that it should again be brought up, and supported merely because the increase was less by a few hundred dollars than first proposed!

Mr. Harper supported the bill, and observed, that the other bill proposed an addition in the aggregate to the present salaries of those officers of 16,000 dollars; but this only intended an increase of 11,550 in the whole. He pressed the necessity of it, in order to command men of ability to fill those important stations. Some chief clerks in merchant's houses in this city, he said, received 2400 dollars, and what was that high salary given in private stations for, if it was not in proportion to the trust confided. This parsimonious legislation he must say was like the old adage of *saving at the spigot and letting out at the bung hole.*

Mr. Champlin contended also in favour of the bill on the same grounds: he thought it was the policy of the government to reward their public servants of the nation liberally, and not leave them to make inroads upon their private fortunes, and for their services only be rewarded in heaven, and not by the country where the benefits of their services was experienced.

The question for the third reading was taken as follows.

Y E A S.

Messrs. Allen, Bartlet, Bayard, Brace, Brooks, Bullock, Champlin, Cochran, Craik, Dana, Dennis, Dent, Edmond, Evans, A. Foster, D. Foster, N. Freeman, J. Freeman, Glen, Goodrich, Gordon, Griswold, Grove, Harper, Hartley, Hindman, Hosmer, Imlay, Livingston, Lyman, Machir, Mathews, Morris, Otis, I. Parker, J. Parker, Pinckney, Reed, Rutledge, Schureman, Sewall, Shepard, Sennickson, S. Smith, N. Smith Spaight, Thatcher, Thomas, Thompson, Van Allen, Wadsworth, Waln. 52.

N A Y S.

Messrs. Baldwin, Bard, Brown, Cabell, Chapman, T. Claiborne, W. Claiborne, Clay, Clopton, Davis, Dawson, Eggleston, Elmen-dorf, Findley, Fowler, Gallatin, Gillespie, Greg, Hanna, Harrison, Havens, Heister, Holmes, Jones, Locke, Lyon, Macon, McClea-chan, M'Dowell, New, Nicholas, Skinner, W. Smith, Sprague, Sprigg, Stanford, Sumpter, A. Trig, J. Trig, Van Cortlandt, Varnum, Venable, R. Williams. 43.

It was then determined to read it a third time this day, which was done, and the question for the bill to pass taken by the yeas and nays. Yeas 52, Nays 40.

The votes were the same in this as in the last question except Messrs. W. Claiborne, Findley, and Van Cortlandt, who were now absent.

A bill for the better organizing of the troops of the United States, and for the purposes, was resumed, the committee rose after several amendments, to which the House agreed, and the bill was ordered to be engrossed.

A bill for the relief of Joseph Wheaton was negatived in the Senate. Motion was made by Mr. Cochran to insert the allowance in the contingent bill, which was carried. Adjourned.

Thursday, February 28.

Reports were made unfavourable to the petitions of Lewis Garingee, and N. H. S. Fornier, to which the house agreed.

The House resolved itself into committee on the report of a committee appointed December 19th, respecting the farther promulgation of the laws, Mr. Josiah Parker in the Chair when the following resolutions were agreed to :

Resolved, That the Secretary of State be authorised to cause all the laws of the United States, which may be passed this session, and hereafter, to be printed in some one, or more of the newspapers in each state, as soon as conveniently may be.

Resolved, That in addition to the number of copies, of the laws now required to be printed at the end of each session of Congress, there ought to be printed 5,000 copies thereof—one copy thereof to be distributed to each of the Judges of the courts of the United States, one for the use of each clerk of the said courts for the use of the courts, and one copy for each of the Marshals and district attorneys of the United States—the rest to be furnished to the states according to the rules of representation.

Resolved, That 2,000 copies of the constitution of the United States, and the amendments that have been made thereto, ought to be printed for the use of the members of this House.

Resolved, That a copy of the constitution of the United States, and the amendments which have been, or may be made thereto, ought to be added to each copy which is to be made to laws of the present session of Congress.

Resolved, That the resolution for authorising and directing the Secretary of state, to cause to be printed, 40,000 copies of the constitution of the United States, ought not to be adopted.

Messrs. Nicholas, Goodrich and W. Claiborne, were instructed to report a bill accordingly.

The House went into committee on the following bills which were ordered to be engrossed for a third reading :

An act to amend the act for making appropriations for military services :

An act authorizing a detachment from the militia of the U. States :

And an act to revise and continue in force a bill for the relief and protection of American Seamen, and to amend the same :

These bills were engrossed, read a third time, during the sitting, and passed.

An act to alter and discontinue several Post Roads and to establish others, was agreed to in committee of the whole, and in the house, and ordered to be engrossed; also the following:

An act making appropriation for the naval establishment for the year 1799:

A bill making additional appropriations for the year 1799. The items were filled as follows:

	Dolls. cts.
Expenses under the fifth article of the British treaty,	25,000
Office rent, clerk hire, &c. under the 6th article,	16,666 67
Office rent under the 7th article,	26,400
To carry into effect the Spanish treaty,	20,000
Treaty with the Mediterranean powers,	200 000
Loan Office and final settlement certificates,	15,000
Expences in addition to 40,000 dollars already appropriated, for carrying on the intercourse with foreign nations	21,000

Contingent expences for carrying on the intercourse with foreign nations, 78,700

Mr. Harper stated this (at the request of Mr. Gallatin) to be for the additional expences which might be expected in the commission to be sent to France to carry on the negociation, and for the commercial treaty with the Turks.

Reimbursement of sums which have been, or may be paid by the American Consuls for the relief of sick and disabled seamen, Dolls.

To the subjects of Algiers and Tunis, for damages in the capture, or losses of merchandize freighted on board the United States vessels,	20,000
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Losses sustained by the owners or the master of the armed ship Niger, detained by the United States ship Constitution,	51,987
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On motion of Mr. Otis, an item was introduced, providing for the expences attending the safe keeping of those persons who have been or may be captured by the ships of the United States,	11,000
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A bill to authorize the sale of certain lands on the Miami rivers, and for giving pre-emption to certain persons. And

A bill for the relief of Comfort Sands and others.

The Senate disagreed to the amendment of the house for inserting an item in the bill, providing for contingent charges, relating to 960 dollars to be allowed to the sergeant at arms while sick at the last session. The house insisted on their amendment and appointed conferees to meet the Senate thereupon.

Adjourned.

Friday, March 1.

The following engrossed bills were read and passed:

A bill for the relief of Comfort Sands and others: Yeas 56—
Nays 15.

A bill authorizing the sale of lands in the United States, N. W., of the Ohio, and for giving pre-emption to certain persons.

A bill making additional appropriation for the year 1799.

And a bill making appropriations for the naval establishment for the year 1799.

A bill was reported by Mr. Harper, agreeable to a report from the Treasury department concerning stills, which was read and ordered to be engrossed.

A bill reported by Mr. Varnum to establish the salary of the Post Master general, and

A bill for the more general promulgation of the laws, were read and committed.

A message from the President was received, announcing his approbation of several bills.

The house resolved itself into a committee on the bill from the Senate, giving eventual authority to the President of the United States to augment the army.

Mr. Josiah Parker in the chair.

The first section of the bill, which goes to enable the President, in case war should break out with any foreign nation, or in case of imminent danger of invasion, to raise 24 regiments of infantry, a regiment and a battalion of riflemen, a battalion of artillerists and engineers, and three regiments of cavalry,—was moved by Mr. Clay to be struck out.

Mr. Gallatin was really at a loss to know what reasons could have dictated the attempt now before this committee.—First the House were told, in order to palliate this measure, that it was to be ready in case of any possible attempt on the part of France, and then, that it was a necessary measure, and finally that they ought not to recede from any steps taken last session, because a majority had taken certain ground respecting France. With respect to naval defence, or giving encouragement to our merchant vessels and public armed vessels, to take French ships of war, he did not think it was proper to recede, or to change the attitude taken. As a private individual, he thought the measures which had been taken on that head, were not the best, but he was willing to give gentlemen who favored those measures, all the credit they could draw from its success; he had not thought proper to move a repeal of any of them, but he thought they ought not to strengthen those measures: he should not have moved to repeal the law respecting the eventual army, more than the provisional army, if it had not fallen of itself, though he saw no use of it. But this is a new law, an augmentation of the army: already we have passed a law to enable the President to raise 8000 men; the law of the last session was to make the eventual army 10,000, so that there was but 2,000 deficient before this bill appeared: this therefore is quite a new measure, and the question simply is, shall we augment the army, and not as stated, shall we recede from former measures?

The permanent army is 5,000. The additional army as directed

last session, was 9,000, this makes a permanent establishment of 14,000, this by the bill for organizing the army, lately passed, is augmented by 8,000 more, and these are raised, not at the discretionary powers of the President, but it is obligatory. The question is now whether we shall enable the President to raise 29 regiments more, the moment he apprehends danger: this will augment the army about 20,000 more. But what is this army? It is an army of 30,000 men upon paper! We have already an army of 9,000 men on paper, and the other day there was an army of 8,000 men on paper, to be added to the 5,000 men who are the permanent army, but this is not full, for notwithstanding the law passed the last session, the President did not proceed to raise the additional army till after the Congress met, and to this day all the officers are not appointed. This is a plain proof, that the President does not see it necessary. I think I may say that this army on paper has not been founded on a measure of necessity: to repel any danger which may be apprehended. Indeed we are told we are in danger, because since last session Egypt has been invaded. But did that gentleman think that there was so much difference between this country and Egypt? That country is open and easy of conquest, besides its inhabitants are slaves: On the contrary, this country is governed by the people themselves, who are a sufficient defence. But though an invasion from France might succeed, how can they invade us without a fleet? We are pointed to the very fluctuating state of Europe: I do believe they are fluctuating, and no event is to be depended upon; but is there any danger from a general peace? If we are not parties in that peace, it will at least be wisdom in our executive to make us parties in that peace, so that no danger should afterwards be apprehended from the event. There can be no danger that we shall be exposed to attempts from the French. The critical situation in which we have been and are, is owing to the present contest in Europe, and there will, no doubt, be some difficulty in making arrangements in order to renew commerce and get satisfaction for the spoliations and captures, but those arrangements will be ultimately made between the two countries. These will be the only obstacles in our way, but a general peace must be a fortunate event for the United States, and therefore there can be no necessity for such armies on paper, as 30,000 men, exclusive of 22,000 already voted for. An army of 52,000 men cannot be necessary, nor is there any proof that it will be in case of war, and as Congress must meet before war can take place, it will be best in order to let the matter stay till they meet, if they think better to bestow the money to a better use, why should we restrict them? The annual expence of an army of 52,000 men will agreeable to the expence of the present permanent army of 5,000 men, which is 1,500,000 dollars, be upwards of 15 millions. I do not think this force will be necessary; I do think it will require a larger fleet than any I know in Europe to carry war on 3,000 miles off by landing

an army sufficient to cope with such an army, in addition to the volunteers and militia which this country affords: I cannot therefore conceive what motive has introduced this section: I see no good in it, but I do see evil. If there is any meaning in this bill, it is that we cannot place any dependence on our militia without the addition of 52,000 men of the standing army, or else that we mean to confine our exertions to paper,—thus we make a most formidable appearance upon paper.

Mr. Harper doubted the justness of the prophecy which the gentleman last up had used, because he usually had prophesied evil to those measures he did not like, but more particularly he doubted them because the event of his former prophecies were different from what he expected; the whole of them to the present moment had proved false, and therefore it was very poor ground for him to continue on. M. Harper then remarked the different windings which that gentleman usually took to oppose a measure; at one time he would say it was dangerous and produced a great deal: at another time it was useless and produced nothing. The latter, in its application to the present bill, must be only said because we have not been actually invaded since the last session, and therefore there is no occasion for it: but on the contrary Mr. H. thought the event ought to establish the measure which had produced it. We were not invaded, but why were we not? Because the power that threatened us were not able. Ask the Swiss: ask the Egyptians why they were invaded, they would answer, because we had not power to withstand. What then secured us from invasion? These very measures which that gentleman opposed with all his might. But he considers the reason why Egypt was invaded was, because it was easy of access, and we are not, therefore we are not invaded. But it was not the measures of that gentleman and his friends which secured us from invasion, but those very measures, one of which is now before the house. This paper army, as the gentleman calls it, has prevented invasion heretofore.

The gentleman farther thinks, that a peace in Europe will put an end to all differences: that there will be nothing to do but settle some old accounts, and all will be well; but, sir, does he forget that it was not till after the peace entered into with the Emperor of Germany at Campo Formio, that the Swiss were attacked by the French? That while the Germans bore hard upon the French, the French kept upon terms of harmony and apparent friendship with the Swiss. Has the gentleman forgotten this? No; if he was ingenuous he would not say he had, but he would tell us our situation was different from Switzerland. The truth is, the French wish to have as few enemies as possible, and when some of them are out of the way, she will divide her efforts somewhere else, and her hands will grasp at more power. We now hear that she has obtained permission of Spain to march one hundred thousand men through her territory to attack Portugal: this we may suppose is effected in consequence of the negotiations at Rastadt being concluded: she still determines to strike some of those who remain. Sir, if Spain is so

humble and slavish to the imperious demands of France, as to permit her to go to her neighbors, what is to hinder her going to Florida, and there to recruit an army in the Spanish possessions, in order to attack us in the most vulnerable part? Would it be less possible or less probable than the other? No, and is it more improbable that she would pour men from her West-India possessions to that country for the purpose? No, it is not. When 100,000 men arrive at Madrid, that moment the Spanish army become merely a name—a tool to the French, and the cabinet must submit to any thing which the French choose to dictate. To support this doctrine of the increase of the demands of the French in proportion to their power, Mr. Harper read some extracts from an answer given by Mr. Pinckney, late envoy to France, to the addresses of Charleston, this he observed was not merely surmise and guess, but coming from a gentleman whose duty it was to watch the movements and dispositions of the directory, it must be well established. Her only appearances of change, were to lull into security in order to divide and conquer. To suppose her to have changed her system, would be a fatal delusion. Thus we are not to follow these poor mean politics the gentlemen from Pennsylvania, and his friends have attempted.

We are told that negociations are on the tapis: from whence have they proceeded? They have proceeded from the very person who is to have this power, and who has declared he is willing to meet the very slightest offers, and even the appearances towards an accommodation. Shall we refuse his efforts to his attempts? These are the very measures which will insure us an honorable peace if any; this alacrity in the President to catch at first appearances ought to inspire us with every reasonable confidence to do it with effect. When is the greatest force most necessary? Is it not at the moment when the olive branch is held forth? Should not that redouble our efforts to shew the power we treat with that if an amicable accommodation cannot be come at, we can oppose them powerfully? This is the custom of all nations, in order to give weight and energy to their terms: this in all ages and nations has shewed the world that negociation is not another name for submission. It behoves us to bestow the whole force of the country at this period, for the defence of its rights and liberties. This will arm us against any infidious terms of peace to which I hope we never shall accede. If there is a prospect of peace between the two countries, then the measure will never come into effect. When it is seen by the French government that we are not to be duped into mean terms, nor to be alarmed by any threats, even if they do not desire peace now, they may then.

We are told that this measure is advancing upon our former defence: it is not so: Our position will be the same as was taken last session, if this bill passes. We do not alter the ground we then took; we only render it more vigorous—more respectable;—we only strengthen ourselves in our former intrenchments, that we may be more effectually prepared to make an attack, and therefore the tendency of it, is not to advance farther.

Mr. Livingston declared he felt as much ardour as any member on the floor, or any citizen in the country to vote for such measures as would be effectual to any necessary purpose; but when he was called on to vote for that measure, he felt it his duty to weigh according to his best judgment every measure agreeable to the circumstances of the country. The question appeared to be whether they should provide against the invasion: he would ask, did any member in the House consider invasion probable: He had not even heard it even affirmed. He had weighed with impartiality all the arguments which had been used, and could not conceive even a probability of invasion, and believing this, he could not give a measure like the present his support, as likely to meet this object. He should not, however, have risen against it, had it been remaining simply upon the same ground as heretofore taken, but it is departing from that ground, although gentlemen declare it is not, but only carrying that principle to a greater extent. Mr. L. said he could not discover the distinction: It appeared to him that giving the President power the last session to raise certain troops, was one ground, but to give him power to increase those troops, it must be quitting that ground.

They tell the House farther, that the measures taken last session have been productive of the present favorable appearances in public affairs: he did not think so: he believed that the change took place previous to that nation being acquainted with those measures. He was not willing to change those measures which were taken last session: he would not ask it, but on the other hand he thought that all those gentlemen ought to ask, who was to persevere in the same measures. If those measures were effectual as gentlemen said, what need to change them? None. All the declamation used about Switzerland, &c. and that eternal recurrence to European politics and those kind of topics has nothing at all to do with our situation. If the same reasons existed when those measures were adopted, and the posture of affairs are not more urgent now, if a rupture is not now nearer in prospect, what motives can there be for strengthening those measures? Then there can be no necessity for it. It is farther supported by the probable insincerity of the negotiations: they must be sincere, or they must not: if sincere, then the bill must be unnecessary: if insincere, then, to follow the argument before used, it would be ineffectual, because we have only this army on paper, and the army we voted is not filled, and how are we ascertained that this 80,000 men can be raised? There can be no foundation for the opinion: I do believe that in case of invasion, your protection must be trusted, not to mercenary troops, but to the militia: for what are those 80,000 men ordered in readiness, but to prepare for any event of this kind. No gentleman can suppose that these men could be got ready in time to repel any invasion after that invasion has taken place, and before that event, it being impossible to know it, preparation cannot be made by this bill.

The word *mercenary* above used, underwent a very lengthy discussion by Messrs. Pinckney, Dayton and Bayard, which was answered by Messrs. T. Claiborne and Gallatin. Mr. S. Smith conceived it would be proper to get a dictionary to reconcile the jarring opinions of gentlemen. Mr. Livingston in rising several times to explain, declared that he meant nothing but troops which received bounty and pay, in contradiction to military troops: this he contended to be strictly the meaning of the word, and this was his application. In some part of the observations of Mr. Bayard, Mr. Eggleston called for order, but the chairman declared the member was in order.

Mr. T. Claiborne again contended that all regular troops were mercenary. He then spoke of the impropriety of giving the President this special power since it was giving him no new power—Sir, said, he, he has power to call all the militia into the field whenever it shall be necessary—he can call you and me into the field, Mr. Chairman, and he cannot call better men into the field than you and me. [A general laugh.] He repeated the sentence—Sir, he has it in his power to call out every man in case of war or invasion, and when he calls I have no doubt they will universally obey: I am sure it will be so with my constituents—I wish I may see so many cockades in the hats of the people when the enemy is near, if he ever comes, as I see about the streets now the enemy is 3000 miles off. People have a right, it is true, to wear cockades, but I do not think it is any certain evidence of their patriotism; but I wish to see them as generally worn when the enemy is at our doors.

The motion to strike out the section was lost. Ayes 42, Nays 54.

Section 6, reads thus:

That the President of the U. S. be authorised to organize all such companies of volunteers as have been, or shall be accepted by him pursuant to the act entitled “An act &c.—into regiments, brigades and divisions and to appoint all officers therefor, agreeably to the organization prescribed by the law for the army of the United States, but the said volunteers shall not be compelled to serve out of the state in which they reside, unless their voluntary consent to such service shall have been previously obtained.

Mr. S. Smith moved to strike out the words in italics. This subject, he said was well argued during the last session. Agreeably to the constitution of the U. States, the individual states were vested with the power to appoint all officers of the militia—these voluntary corps were considered as part of the militia, and by placing that appointment in the hands of the President, was to take it out of the hands of the individual States. This act operates farther: it takes the youth out of the militia, and places them in those volunteer corps, and thus rendering the militia a less efficient defence in cases of danger than they would be. The militia, wherever they are ordered must go: the volunteers, on the contrary, if this clause remains, cannot be ordered out of their own state; thus a person by

going into a volunteer corps, would escape a lengthy march, and perhaps a hazardous and useful service. The youth; the most energetic part of our country are to stay at home! His, in his opinion would paralyze the vigour of our militia, and in a manner destroy its efficacy: he could not conceive what support such a principle could have.

Mr. Bayard thought that this motion would operate so, that we should have no volunteers at all: volunteers, he observed, were composed of young men who discipline themselves in order to afford defence, and support to their property: whenever it be found that they are liable to be called out of their state, whatever may be the spirit of the young men themselves, the influence of their guardians or parents would probably be sufficient to deter them from entering into these bodies. This he conceived an important thing, because it was absolutely necessary for the safety of the country, that there should be volunteers, but this would leave them in a much more hazardous situation than the militia—those were engaged for a considerable time, while the period which the militia had to serve was short. This he considered about upon a balance with the other.

He could not imagine a case in which they would not go beyond the provisions of the Bill, as they are actuated by a principle of love to their country in their voluntary engagement in the service: it would be considered as dishonorable, and contrary to the spirit of patriotism, to avail themselves of the circumstance of this law, when necessity called them beyond the line of the states.

Mr. M'Dowel, said his mind was much impressed with the impropriety of this section, as introduced last session: he considered it contrary to the constitution, because the power of commissioning the officers was vested in the states, and not in the general government: as the law passed at that time, he was in hopes that the impropriety would strike the minds of gentlemen so that it would never be re-enacted. He read the section of the constitution relating to the subject. He then repeated what he thought were Mr. Bayard's words, injurious to the patriotic character of the volunteers. Mr. Bayard explained that he meant merely that the influence of parents, &c, would prevent volunteering.

Mr. M'Dowel, said he well recollects that last session, the gentleman observed those volunteers were so much engaged in cities and towns, that it would be injurious to their health to be called out to a distant service: but he said he had a different opinion, and a different wish; he wished to see volunteers who were willing to go to the most distant parts of the union: he did not think much confidence could be placed on those who would go but to a certain point, he supposed an enemy not far from the lines of Maryland or New-Jersey, and the volunteers of Pennsylvania would not cross the line: the whole intentions of the government may be at once blasted, and the enemy prove victorious: he was not so willing as the gentleman appeared to be to hazard so much on the mere hazard of dis-

grace on those who had the power to refuse serving their country at that moment of danger. He thought it would be much discrediting them to pass a provision in which their patriotism was doubted.

There was an advantage these corps had, which the militia had not: they were paid for time lost in training. When he saw an attempt made so much to the injury of that system—so partial, and so much to the destruction of it, he was bound to call gentlemen to come forward and disappoint it. The militia system is the only system we ought to cherish and every attempt to damp the military ardour of that body ought to be opposed with exertion.

Mr. W. Claiborne considered the volunteers, as well as the militia, belonging to the general defence of the country: the young men of Tennessee were as much bound to defend the state of Delaware, as the soil on which they live, and he had no doubt if necessary, they would do it as willingly. He did not think it was the duty of that house to gratify a contrary disposition. He was sorry to hear, but hoped the gentleman from Delaware was mistaken in his assertions that parents would prevent them going: he trusted the wishes of parents were not so confined as to narrow their views to their own property alone. The object and event of this privilege would be, that the young men would immediately enlist in the favored corps. Justice and policy forbade such a law as this: if such should exist, the militia, the only substantial support of our government, would receive a mortal stab. Pass a law that would have a tendency to injure the militia, and you wound the support of our country.

Mr. Macon could not conceive, if it was so certain as a gentleman had said, that our young men would not hesitate to pass the state lines, where was the necessity to pass a law against it. It appears, by the argument, to be a law passed for the old folks, and not for the young ones! However the gentleman conceived, he did not believe that the knowing ones were to be taken in: however he was not willing to trust them, and therefore hoped the exception would be removed.

Mr. W. Claiborne spoke further on the injuries of this clause, in as much as it gave an additional influence to the President in the appointment of the officers. As the constitutionality of that power was questioned, he moved the committee to rise, in order to give opportunity for further consideration: his view was to postpone the bill till next session of Congress.

This motion was negatived.

The former motion being under consideration—

Mr. Venable said, there appeared to him two reasons in favor of striking out this clause: the gentleman from Delaware, and the friends of the clause had acknowledged that their object was to deceive those persons who entered the corps, or to deceive their friends: he thought to leave them to expect the principle under which they engaged, might occur. He did not like to see this pre-

ference given, or that one corps should have a lighter service than another: it was establishing corps to be exempted from the common burdens of the community: if no other reason, he tho't this would be a sufficient one against the clause.

Mr. S. Smith drew some examples from the conduct of the militia during the war, when they refused to serve beyond the period for which they were called, which proved the defeat of the army of the United States, the same might possibly occur if these volunteers were restricted.

Sir, said he, never place your commanders in this situation, that when they rely on the forces under their command, that reliance shall prove fallacious, owing to the imperfection of your laws. He would not like such a command, nor did he believe any general would.

Mr. Dayton (the speaker) said he should need no stronger argument than the gentleman from Maryland, just sat down, had used to show the little reliance that could be placed on the militia—he had shown the committee what a disadvantage there was in having a section of an army on service for so short a period as three months. Should there not, he asked, be some privileges allowed to men who engaged themselves for so long a time as two years; who were the very first to be called out on an emergency—men who pledge themselves to their country for this purpose? What is asked in return for these disadvantages? Why that these 75,000 men, thus, to be taken into the service, should not be asked to go out of their respective states. This was not unusual; it was no more than reasonable. These men would be placed at the point where the greatest danger was, and would much screen the militia from service, and therefore, instead of being disagreeable to the main body of the militia, it would certainly meet their wishes.

A gentleman had supposed it would extend the power of the President; Mr. Dayton conceived the contrary: it would certainly abridge that power by precluding him from sending these men beyond the limits of their state.

The question to strike out was carried, Ayes 48, Noes 43. In the House, after the committee rose, it was agreed to, 51 to 44. When Mr. Otis moved to insert a clause, so that those volunteers should not be compelled to serve out of their state for a longer time than three months after their arrival at the seat of rendezvous. This was carried. Ayes 52.

Mr. Gallatin moved to insert an amendment to the 2d section, which had an effect to prevent the President from appointing the officers till the time there was necessity for the troops according to this law. This was negatived. Yeas 56, Nays 39.

On the question for a third reading, it was carried for this day. The bill was then read a third time, and the question on its passing taken by yeas and nays. Yeas 54—Nays 41. Adjourned.

Saturday March 2.

The following bills were taken up ; the house in committee, and the house agreed to them, and they were severally read a third time and passed.

A bill respecting distillers of Geneva :

A bill to regulate the medical establishment :

A bill to establish the salary of the post-master general :

A bill providing for the security of bail in certain cases :

A bill to reform the superior courts in the territory of the United States North West of the river Ohio :

This bill allowed to the chief judge of these courts 1,500 dollars per annum. Mr. W. Claiborne moved to alter it, so as to be 1,000, the same as those of Kentucky and Tennessee. Carried 32 to 31.

The Senate disagreed to these amendments, and proposed a conference. It was finally agreed to postpone the bill 'till next session of Congress.

An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontier.

An act in addition to an act for the more general promulgation of the laws.

And an act authorizing the President of the United States to fill certain vacancies, in the army or navy.

The following Message was received from the President of the United States, transmitting a statement of the vessels with their tonnage, warlike force and complement of men to which commissions, as private armed vessels, have been issued since the ninth of July last.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

JUDGING it of importance to the public, that the Legislature should be informed of the gradual progress of their maritime resources, I transmit to Congress, a Statement of the vessels with their tonnage, warlike force and complement of men, to which commissions, as private armed vessels, have been issued since the ninth of July last.

JOHN ADAMS.

March 2d, 1799.

X x x

CONGRESSIONAL

STATEMENT of the vessels with their tonnage, warlike force and complement of men, to which commissions as private armed vessels have been issued by the Secretary of State and by the Collectors of the Customs under his direction, from the ninth day of July, 1798, to the twenty-first February, 1799.

STATE.	DISTRICT.	No. of vessels.	Tons.	Warlike Force.	No. of crews.
N. Hampshire	Portsmouth	11	186.	6	10
Massachusetts	Portland and } Falmouth	2	391.21	6	20
	Marblehead	6	562.	26	59
	Plymouth	1	90.18	2	8
	Bath	1	575.42	16	50
	Biddeford and } Pepperelboro'	2	430.23	9	23
	Gloucester	4	396.	14	38
	Newbury-Pott	3	525.	13	37
	Boston	60	11,162.37	487	3,155
	Salem and } Beverly	34	6,018.	178	510
Rhode-Island	Providence	5	1,298.49	42	132
	Newport	4	485.87	27	62
Connecticut	New-London	5	1,129.10	54	138
	Middletown	1	180.6	8	20
	New-York	67	11,899.56	551	1,284
Maryland	Baltimore	61	10,383.74	437	1,076
Pennsylvania	Philadelphia	64	13,785.61	497	1,562
Delaware	- - - - -	1	104.	6	15
Virginia	Alexandria	3	511.58	22	54
	Bermuda Hund.	3	937.49	40	80
	Norfolk	10	1,690.	65	109
N. Carolina	Newbern	1	202.45	6	20
S. Carolina	Charleston	24	3,202.30	197	356
Georgia	Savannah	2	604.59	14	28
		365	66,691.60	2,723	6,847

RECAPITULATION.

Vessels armed, - - - 365
 Their tonnage, - - - 66,691.60-95
 Number of their guns, - - 2,723
 Number of their men, - - 6,847

Department of State, March 1, 1799
 TIMOTHY PICKERING.

Mr. A. Foster called up a resolution which he laid on the table a few days past to amend the constitution so as that the electors should designate whom they vote for as President, and who as Vice President: he moved its reference to a committee of the whole, on the state of the Union, which was negatived, 56, to 28.

Mr. J. Parker from the conferees to meet the Senate on the amendment of this House to the bill for granting additional compensation, &c. so far as related to the allowance to the Sergeant at arms, reported that the two Houses would not come to an agreement. Motion was then made and carried for the House to recede from their amendment.

Mr. Cochran then called up his resolution for the clerk to pay the money proposed out of monies not otherwise appropriated. This was opposed by Mr. Macon, who moved its postponement, which was negatived 33 to 31. The motion was agreed to, 37 to 30.

Mr. Gregg laid on the table a petition from Lancaster county, Pennsylvania, signed by 951 persons, praying the repeal of the alien and sedition bills.

Several reports were made from the committees of claims and commerce, and the House adjourned till 7 o'clock this evening.

Mr. Otis called up the bill for vesting power of retaliation in the President in certain cases.

Mr. Dent moved its postponement till next session of Congress, which was negatived 35 to 32.

The House went into committee thereupon, Mr. Josiah Parker in the chair.

On the question for the committee to rise and report the bill, a debate ensued. Mr. Livingston opposed it, and Mr. Otis supported it.

The committee rose, and in the House several amendments were made after considerable debate; which materially altered its appearance:

Mr. Macon then moved its postponement, which also was negatived 48 to 37.

The question on its finally passing was taken by yeas and nays as follows.

Y E A S.

Messrs. Allen Baer, Bartlett, Bayard, Brooks, Bullock, Champlin, Cochran, Dana, Dennis, Dent, Edmund, A. Foster, D. Foster, N. Freeman, J. Freeman, Glen, Goodrich, Gordon, Gregg, Griswold, Grove, Hanna, Harper, Hartley, Hindman, Holmes, Hosmer, Imley, Kittera, Lyman, Machir, Matthews, Morris, Otis, I. Parker, J. Parker, Pinckney, Reed, Schureman, Sewall, Shepard Sinnickson, S. Smith, N. Smith, Spaight, Sprague, Thatcher, Thomas, Thompson, Tillinghast, J. Trigg, Van Allen, Varnum, Wadsworth, Waln,
—56.

N A Y S.

Messrs, Baldwin, Brown, W. Claiborne, Clay, Clopton, Dawson, Eggleston, Elmendorf, Findley, Fowler, Gallatin, Gillespie, Harrison, Havens, Jones, Livingston, Locke, Lyon, Macon, M'Clenahan, M'Dowell, New, Skinner, W. Smith, Sprigg, Stanford, Sumter, A. Trigg, Van Cortlandt, R. Williams,—30.

The Senate informed the House that they had disagreed to the bill for the relief of Robert Sturgeon.

A resolution was proposed and agreed to, that the clerk pay to the two door keepers, one hundred dollars each for their extra services during the present session.

Mr. D. Foster proposed a resolution that the clerk of this House, and the secretary of Senate be directed to subscribe for 400 copies of the edition of the Journals proposed to be published by R. Howell, which was carried. This is conformable to a resolution the Senate entered into at the last session.

The Senate submitted an amendment to the bill for continuing the draft of 80,000 militia, which goes to authorize the President if he should think fit, not to call out any part of the detachment from any state Eastward of the river Potomac. This extraordinary proposition was debated for some time, and at length unanimously rejected.

On Sunday a message was sent from Senate informing the House that they had resolved to postpone this bill till next session of Congress.

Motion was made to adjourn; 7 o'clock on Sunday evening, and 10 o'clock in the morning were proposed: the former by Mr. Dana; after some observations, the former was negatived, and it appearing that the Senate had adjourned till 10 o'clock the House agreed then to meet, and conclude the business of the session; several bills not having been gone through with. Adjourned at half past ten.

Sunday, March 3.

A bill was received from Senate to alter the time for the next meeting of Congress to the third Monday in November.

Mr. Bayard moved to reject the bill, and made some observations on it, mentioning the probability of a return of the fever to this city, which would render it an impolitic measure.

The bill was rejected 53 members rising in favour of it.

Mr. Macon made the following usual motion.

Resolved, that a committee be appointed, on the part of this House, jointly with a committee that may be appointed on the part of the Senate, to notify the President of the United States, that Congress are ready to adjourn, without day, unless he may have any further communication to make to them.

Messrs. Otis, Macon and Brooks, were appointed.

Before the close of the sitting, Mr. Otis reported, That the committee had attended to that duty, and that the President had directed

them to inform the house, that he had no farther communication to make to them except to express his wishes for their health and happiness, and a pleasant journey to their families and friends.

Mr. Champlin proposed the following resolution.

That the thanks of the house be presented to Jonathan Dayton, in testimony of their approbation of his conduct in the discharge of the important and arduous duties which devolved on him while in the chair.

The clerk put the question which was carried, Ayes 40, Noes 22.

After which the Speaker rose and addressed the house to the following effect :

GENTLEMEN,

I should do injustice to my feelings were I not to acknowledge my sense of the gratitude due to you, for your approbation of my conduct by this second vote, during the four years I have had the honor of filling this chair: and equally so were I not to express my sense of the support which has been uniformly afforded me, to which I attribute rather, than to my own ability or attention, the success that has attended my attempts. Permit me, at the same time to say, that I rather feel gratified than otherwise at the difference of opinion which has marked the vote of this house, and which has not been carried in the usual form of unanimity of approbation. There are men in all public bodies, whose vote of approbation would operate rather as a censure than an honor: unfortunately it is so in this house. As I am about to abandon a seat which I have had the honor of filling for eight years, permit me for a moment, gentlemen to bid you all an affectionate farewell.

Several bills were sent from the Presid^r t, which he had approved of.

The usual resolution to inform the Senate that the House were about to adjourn was passed, and the Speaker adjourned the House sine die.

7 AP 59

